Also, petition of sundry citizens of Iverton, Providence, Newport, R. I., and J. M. Brownell and George R. Hicks, of Portsmouth, R. I., favoring national prohibition; to the Committee on the Judiciary.

Also, petition of A. J. Magoon & Son, of Providence, R. I., relative to House bill 11321, regarding patents for designs; to the Committee on Patents.

By Mr. PAIGE of Massachusetts: Petition of 200 voters of the thirty-sixth congressional district of New York, protesting against national prohibition; to the Committee on the Judiciary.

By Mr. PATTEN of New York: Petition of 132 voters of the eighteenth congressional district of New York, against passage of Hobson-Sheppard-Works resolutions, relative to national prohibition; to the Committee on the Judiciary.

By Mr. PLUMLEY: Petitions of the Methodist Episcopal Church of Barnard and the Woman's Christian Temperance Union of Plainfield, Vt., favoring national prohibition; to the Committee on the Judiciary.

By Mr. REILLY of Connecticut: Petitions of sundry citizens of New Haven, Conn., protesting against national prohibition; to the Committee on the Judiciary.

Also, petition of William E. Weathers and Herbert Benvil, favoring "One hundre years of peace celebration"; to the Committee on Foreign Affairs.

Also, petition of New Canaan Equal Franchise League, favoring passage of the Bristow-Mondell resolution enfranchising women; to the Committee on the Judiciary.

Also, petition of the National Shoe Wholesalers Association, protesting against extension of Parcel Post Service; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of Massachusetts, approving stand taken by the President in Mexican trouble; to the Committee on Foreign Affairs.

By Mr. SCULLY: Petition of various business men of Metuchen and Woodbridge, N. J., favoring passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. J. M. C. SMITH: Resolution adopted by the National Association of Vicksburg Veterans, petitioning Congress to commemorate the semicentennial of the ending of the Civil War; to the Committee on Military Affairs.

Also, resolution adopted at a mass meeting in Faneuil Hall, Boston, urging action by Congress to disclaim annexation of any Mexican territory; to the Committee on Foreign Affairs.

By Mr. TAVENNER: Petition of R. W. Kinnett, of Roseville, Ill., favoring passage of the Stevens bill, relative to price maintenance; to the Committee on Interstate and Foreign Commerce.

By Mr. TOWNSEND: Petition of 6,369 voters of the tenth New Jersey congressional district, protesting against national prohibition; to the Committee on the Judiciary.

By Mr. TUTTLE: Petitions of sundry citizens of Chatham, Pine Rock, and Dover; 576 citizens and 40 members of the Young Men's Christian Association, of Successunna; 300 citizens of Plainfield; the Baptist Church and 62 citizens of Summit; and 345 citizens of Cranford, all in the State of New Jersey, favoring national prohibition; to the Committee on the Judiciary.

Also, petition of Elizabeth (N. J.) Board of Trade, protesting against extension of parcel-post service; to the Committee on the Post Office and Post Roads.

Also, petition of the National Wholesale Lumber Dealers' Association, favoring 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, memorial of the United Irish-American Societies of the State of New Jersey, protesting against the repeal of the canal tolls exemption; to the Committee on Interstate and Foreign Commerce.

Also, petition of 2,905 citizens of the fifth congressional district of New Jersey, against national prohibition; to the Committee on the Judiciary.

By Mr. WALLIN: Petition of 814 voters of the thirtieth New York congressional district, protesting against national prohibition; to the Committee on the Judiciary.

By Mr. WILSON of New York: Petitions of sundry voters of the third congressional district of New York and the Brooklyn Quartette Club, of Brooklyn, N. Y., protesting against national prohibition; to the Committee on the Judiciary.

By Mr. YOUNG of North Dakota: Petitions of the Stacey Fruit Co. and others, of Bismarck, N. Dak., protesting against changing of standard size of cranberry barrels; to the Committee on Interstate and Foreign Commerce.

SENATE.

WEDNESDAY, *May 6, 1914.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we come to Thee day by day because whatever of merit there is in us must come from Thee. Our very conscious life, with its feeling of dependence, rests upon our sense of the absolute and the infinite. Thou art and Thou art a rewarder of them that diligently seek Thee. We pray that Thou wilt enable us to do Thy will, that we may know the doctrine that it is of God, and that our lives may be brought even at this moment into a more blessed accord with Thy will. For Christ's sake. Amen.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 661) for the relief of the widow of Thomas B. McClintic, deceased, with amendments in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills:

S. 540. An act for the relief of Joseph Hodges;

S. 1808. An act for the relief of Joseph L. Donovan;

S. 1922. An act for the relief of Margaret McQuade; and

S. 3997. An act to waive for one year the age limit for the appointment as assistant paymaster in the United States Navy in the case of Landsman for Electrician Richard C. Reed, United States Navy.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 851. An act for the relief of the legal representatives of Napoleon B. Giddings;

H. R. 900. An act for the relief of James Easson;

H. R. 932. An act for the relief of John W. Canary;

H. R. 1517. An act for the relief of George W. Cary;

H. R. 1781. An act providing for the refund of certain duties incorrectly collected on wild-celery seed;

H. R. 2705. An act for the relief of David C. McGee;

H. R. 2728. An act for the relief of George P. Heard;

H. R. 3041. An act to carry into effect findings of the Court of Claims in the cases of Charles A. Davidson and Charles M. Campbell;

H. R. 3334. An act authorizing the quitclaiming of the interest of the United States in certain land situated in Hampden County, Mass.;

H. R. 3428. An act for the relief of James Stanton;

H. R. 3432. An act to reinstate Frank Ellsworth McCorkle as a cadet at United States Military Academy;

H. R. 4318. An act to authorize the Secretary of the Interior to cause patent to issue to Erik J. Aanrud upon his homestead entry for the southeast quarter of the northeast quarter of section 15, township 159 north, range 73 west, in the Devils Lake land district, N. Dak.;

H. R. 4744. An act to authorize the appointment of John W. Hyatt to the grade of second lieutenant in the Army;

H. R. 6052. An act for the relief of William P. Havenor;

H. R. 6260. An act for the relief of Hyacinthe Villeneuve;

H. R. 7633. An act for the relief of the personal representative of Charles W. Hammond, deceased;

H. R. 8808. An act for the relief of Baley W. Hamilton;

H. R. 8811. An act to execute the findings of the Court of Claims in the case of Sarah B. Hatch, widow of Davis W. Hatch;

H. R. 9147. An act to restore First Lieut. James P. Barney, retired, to the active list of the Army;

H. R. 9851. An act for the relief of legal representative of George E. Payne, deceased;

H. R. 10172. An act for the relief of L. V. Thomas;

H. R. 10201. An act for the relief of the heirs of Theodore Dehon;

H. R. 11040. An act to carry out the findings of the Court of Claims in the case of James Harvey Dennis;

H. R. 11381. An act for the relief of the estate of T. J. Semmes, deceased;

H. R. 12191. An act for the relief of Elizabeth Muhleman, widow of Samuel A. Muhleman, deceased;

H. R. 13240. An act for the relief of the legal representatives of James S. Clark, deceased;

H. R. 14197. An act for the relief of the legal representatives of Mrs. H. G. Lamar; and

H. R. 14229. An act for the relief of Henry La Roque.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 5993) authorizing the city of Montrose, Colo., to purchase certain public lands for public park purposes, and it was thereupon signed by the Vice President.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of the Board of Trade of Hilo, Hawaii, praying for an appropriation for the construction of a breakwater at Nawiliwili Harbor, Island of Kauai, Territory of Hawaii, which was referred to the Committee on Commerce.

He also presented petitions of sundry citizens of Indianapolis, Attica, and West Lebanon, in the State of Indiana; of Gardiner and Biddeford, in the State of Maine; of Detroit and Benzonia, in the State of Michigan; of Upland and Glendale, in the State of California; of McKees Rocks, Pa.; of Chicago, Ill.; of Carthage, N. Y.; of Glen Alpine, N. C.; of Fort Hill, Idaho; and of Mansfield, La., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. GALLINGER presented petitions of the congregations of the Congregational Church of North Weare; the Congregational Church of Langdon; the Protestant Churches of Keene and the First Congregational Church of Keene; of the Christian Endeavor Society and the Sunday School of the Congregational Church of West Concord; and of the Christian Endeavor Society of Merrimack County, all in the State of New Hampshire, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented memorials of Fred D. Crawford and 18 other citizens of Lancaster, Woodville, and Benton; of 82 citizens of Derry, 248 citizens of Dover, 46 citizens of Keene, and 15 citizens of Greenland, all in the State of New Hampshire, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a memorial of Typographical Local Union No. 152, of Manchester, N. H., remonstrating against the proposed increase in postage rates on second-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented the petition of Mrs. Charles E. Tenney, of West Lebanon, N. H., praying for the adoption of an amendment to the Constitution granting the right of suffrage to women, which was ordered to lie on the table.

He also presented a petition of the Central Labor Union of Lebanon, N. H., praying for the enactment of legislation to increase the wages of compositors and bookbinders in the Government Printing Office, which was referred to the Committee on Printing.

He also presented the petition of J. A. Tufts, of Exeter, N. H., praying for the enactment of legislation creating a division on kindergarten education in the Bureau of Education, which was referred to the Committee on Appropriations.

He also presented a memorial of the American Association of Landscape Architects, of Rochester, N. Y., remonstrating against the abandonment of the half-and-half plan for the payment of the expenses of the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. BURLEIGH presented a petition of sundry citizens of Wytopitlock, Me., and a petition of the congregation of the Methodist Episcopal Church of West Scarboro, Me., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. WORKS presented petitions of the Ministerial Union of Salinas, and of the congregations of the First Presbyterian Church, the First Christian Church, and the First Methodist Church, of the Young Men's Christian Association, and the Church Federation, all of Watsonville, in the State of California, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. DILLINGHAM presented a petition of the congregation of the Methodist Church of Barnard, Vt., and a petition of sundry citizens of Plainfield, Vt., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. SHIVELY presented petitions of the congregations of the Methodist Episcopal Church of Mooresville and the Home Presbyterian Church, of Indianapolis, and of the Woman's Home and Foreign Missionary Society of Preston Church, of Greencastle, all in the State of Indiana, praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

He also presented petitions of the congregations of the Grace Lutheran Church, of Elkhart, and the First Presbyterian Church of Elkhart, and of the First Baptist Sunday School of Elkhart, all in the State of Indiana, praying for the enactment of legislation providing for Federal censorship of motion pictures, which were referred to the Committee on Education and Labor.

He also presented a memorial of the Manufacturing Association of Evansville, Ind., remonstrating against any further extension of the Parcel Post System, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Washington Camp, No. 33, Patriotic Order Sons of America, of Indianapolis, Ind., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

He also presented a petition of the Federation of Labor of Fort Wayne, Ind., praying for the enactment of legislation to grant pensions to certain civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. BRANDEGEE presented a petition of the Woman's Christian Temperance Union of Croton, Conn., praying for national prohibition; which was referred to the Committee on the Judiciary.

He also presented a petition of Camp Kirkland, No. 18, United Spanish War Veterans, of Winsted, Conn., praying for the enactment of legislation granting pensions to widows and orphans of soldiers and sailors of the Spanish-American War, which was referred to the Committee on Pensions.

Mr. PAGE presented a petition of the congregation of the Advent Christian Church, of Vernon, Vt., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. DU PONT presented a petition of sundry citizens of Wyoming, Del., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. JOHNSON presented petitions of sundry citizens of Livermore Falls, Me., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. NORRIS presented a petition of the Nebraska Conference of the Evangelical Lutheran Augustana Synod of America, praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. POINDEXTER presented a petition of Local Branch Congregations Association of Eastern Washington and Northern Idaho, of Odessa, Wash., praying for national prohibition, which was referred to the Committee on the Judiciary.

He also presented a memorial of the Central Labor Council of Tacoma, Wash., remonstrating against the conditions existing in the mining districts of Colorado, which was referred to the Committee on Education and Labor.

DONATION OF CANNON.

Mr. CHAMBERLAIN, from the Committee on Military Affairs, submitted a report (No. 484) accompanied by a bill (S. 5495) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls, which was read twice by its title.

He also, from the same committee, to which were referred the following bills, reported adversely thereon, and the bills were postponed indefinitely:

A bill (S. 5437) authorizing the Secretary of War to donate to the town of West Warwick, R. I., condemned cannon and balls;

A bill (S. 5380) authorizing the Secretary of War to deliver to the city of Pittsburg, Okla., one condemned bronze or brass cannon;

A bill (S. 5377) authorizing the Secretary of War to donate to the town of Nottingham, N. H., condemned cannon and balls;

A bill (S. 5105) authorizing the Secretary of War to donate to the H. G. Libby Post, No. 118, Grand Army of the Republic, in the town of Newport, State of Maine, one bronze or brass cannon or fieldpiece, with its carriage and cannon balls;

A bill (S. 5156) donating a brass or bronze cannon to the incorporated town of Alden, Iowa;

A bill (S. 5257) authorizing the Secretary of War to donate to the General Hazen Post, No. 258, Grand Army of the Republic, Lincoln, Kans., one bronze cannon and sufficient shells to make two pyramids;

A bill (S. 4668) authorizing the Secretary of War to deliver to the village of Ellsworth, Wis., two condemned bronze or brass cannon;

A bill (S. 4669) authorizing the Secretary of War to deliver to the town of Eagle River, Wis., two condemned bronze or brass cannon;

A bill (S. 5006) authorizing the Secretary of War to donate to the Grand Army of the Republic Post at Chariton, Iowa, two brass or bronze cannon or fieldpieces, with their carriages and a suitable outfit of cannon balls;

A bill (S. 5059) authorizing the Secretary of War to donate one cannon to the town of New Preston, Conn.;

A bill (S. 4285) authorizing the Secretary of War to donate to the hall of Topeka Post, No. 71, Grand Army of the Republic, for use in its plat in the Mount Auburn Cemetery, in Topeka, Kans., four cannon or fieldpieces;

A bill (S. 4286) authorizing the Secretary of War to donate to the O. M. Mitchell Post, No. 69, Grand Army of the Republic, Osborne, Kans., two cannon or fieldpieces;

A bill (S. 4287) authorizing the Secretary of War to donate to the city of Concordia, Kans., two cannon or fieldpieces;

A bill (S. 4388) authorizing the Secretary of War to donate to the Masonic homes property at Elizabethtown, Pa., four brass or bronze cannon or fieldpieces, with their carriages, and a suitable outfit of cannon balls;

A bill (S. 4544) authorizing the Secretary of War to donate to Custer Post, No. 25, Grand Army of the Republic, at Cherokee, Iowa, two brass or bronze cannon or fieldpieces, with their carriages, and a suitable outfit of cannon balls;

A bill (S. 4645) authorizing the Secretary of War to donate to Post 305, Grand Army of the Republic, Towanda, Kans., one cannon or fieldpiece;

A bill (S. 4403) authorizing the Secretary of War to donate to the city of Stafford, Kans., one cannon;

A bill (S. 4429) authorizing the Secretary of War, in his discretion, to deliver to the Fort Totten Indian School, at Fort Totten, in the State of North Dakota, one condemned cannon, with its carriage, and outfit of cannon balls;

A bill (S. 4438) authorizing the Secretary of War to donate to Wadsworth Post, No. 7, Grand Army of the Republic, of Council Grove, Kans., two cannon or fieldpieces; and

A bill (S. 4510) authorizing the Secretary of War, in his discretion, to deliver to the city of Hope, in the State of North Dakota, one condemned cannon, with its carriage, and outfit of cannon balls.

FISH-CULTURAL STATIONS ON COLUMBIA RIVER.

Mr. JONES, from the Committee on Fisheries, to which was referred the bill (S. 4854) to authorize the establishment of fish-cultural stations on the Columbia River or its tributaries in the State of Oregon, reported it with amendments and submitted a report (No. 485) thereon.

BRIDGE ACROSS BAYOU MACON, LA.

Mr. SHEPPARD. From the Committee on Commerce, I report back favorably, without amendment, the bill (S. 5291) to authorize Edmund Richardson or the parishes of East Carroll and West Carroll, La., or both, to construct a bridge across Bayou Macon at or near Epps Ferry, La., and I submit a report (No. 483) thereon. I ask for the immediate consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT PENSACOLA, FLA.

Mr. KERN. From the Committee on Public Buildings and Grounds, I report back favorably, without amendment, the bill (H. R. 12291) to increase the limit of cost for the extension, remodeling, and improvement of the Pensacola, Fla., post office and courthouse, and for other purposes.

Mr. BRYAN. I ask unanimous consent for the present consideration of the bill.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the act entitled "An act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes," approved June 25, 1910, be, and the same is hereby, amended, so as to increase the limit of cost for the extension, remodeling, and improvement of the Pensacola, Fla., post office and courthouse in the sum of $30,000, or so much thereof as may be necessary to complete said extension, remodeling, and improvement.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. OLIVER:

A bill (S. 5489) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts; to the Committee on Claims.

By Mr. JAMES:

A bill (S. 5490) granting a pension to Marvel J. Nash (with accompanying papers); to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 5491) for the relief of the legal representatives of Capt. Harrison S. Weeks and Alexander McCook Guard; to the Committee on Claims.

By Mr. OVERMAN:

A bill (S. 5492) authorizing the Secretary of War to donate two condemned bronze or brass cannon or fieldpieces and a suitable outfit of cannon balls to the city of Lenoir, N. C.; to the Committee on Military Affairs.

By Mr. JONES:

A bill (S. 5493) granting an increase of pension to Francis M. Stults; to the Committee on Pensions.

By Mr. JOHNSON:

A bill (S. 5494) for the relief of the legal representatives of Henry Prince, and others; to the Committee on Claims.

By Mr. OLIVER:

A bill (S. 5496) authorizing a credit in certain accounts in the office of the Auditor for the War Department (with accompanying paper); to the Committee on Claims.

By Mr. NORRIS:

A bill (S. 5497) authorizing the issuance of patent to Arthur J. Floyd for section 31, township 22 north, range 22 west of the sixth principal meridian, in the State of Nebraska; to the Committee on Public Lands.

By Mr. CRAWFORD:

A bill (S. 5498) to secure cooperation between the Interstate Commerce Commission and the State railway boards and commissions of the several States in correlating, changing, and establishing intrastate rates, charges, and fares which indirectly affect interstate commerce in the transportation of passengers and property by public carriers, and providing for procedure relative thereto; to the Committee on Interstate Commerce.

By Mr. RANSDELL:

A bill (S. 5499) making appropriation for the construction of a roadway and walks leading to and around the Chalmette Monument, Chalmette, La.; to the Committee on Military Affairs.

By Mr. O'GORMAN:

A bill (S. 5500) for the relief of the legal representatives of Joseph H. McArthur, and others; to the Committee on Claims.

By Mr. CHAMBERLAIN:

A joint resolution (S. J. Res. 145) authorizing the President to detail Lieut. Frederick Mears to service in connection with proposed Alaskan railroad; to the Committee on Military Affairs.

AMENDMENTS TO RIVER AND HARBOR APPROPRIATION BILL.

Mr. JONES submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. SHIVELY submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

EMPLOYMENT OF STENOGRAPHER.

Mr. O'GORMAN submitted the following resolution (S. Res. 350), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the provisions of the resolution of April 6, 1914, authorizing the Committee on Interoceanic Canals to employ temporarily a stenographer be extended for 30 days from the adoption of this resolution.

AFFAIRS IN MEXICO.

Mr. SHEPPARD. I have here a brief statement from the Dallas Morning News of May 3, 1914, by my colleague [Mr. CULBERSON], on the Mexican situation, which I should like to have printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the Dallas Morning News, Sunday, May 3, 1914.]

Yesterday Senator CULBERSON gave out an interview in support of President Wilson's Mexican policy, as follows:

"Every class of our citizenship throughout the country, and especially every Democrat, should uphold the President in his policy with Mexico. Necessarily the President has information on the subject not in possession of the general public, and which can not in the nature of things be made public, at least for the present, which influences, if not controls, his action. Under such conditions the people should rely upon his judgment and discretion to do what is just and wise for the United States. He is by the Constitution clothed with authority to deal with foreign nations, and the character of President Wilson particularly is such that this power may be safely placed in him and in his administration.

"POLICY IS WISE.

"Besides this, the policy which he is pursuing in the matter is, I think, the wise one, and reflects the best sentiment of the American people. In its breadth and essentials this policy seeks to avoid war with Mexico by all means consistent with our domestic and foreign interests and the national honor. To the great mass of thinking Americans war is a fearful thing and should be the very last resort. War with Mexico, while not the most serious one we could engage in, would be calamitous enough. It would mean, primarily, the loss of many of our brave men in battle and bring sorrow to many homes. It would necessitate the raising of an army of from 250,000 to 500,000 men, the expenditure of hundreds of millions of dollars out of the Public Treasury, an increase in Federal taxation, with a possible bond issue, an indefinite increase of the pension list, and, after a long and distressing guerrilla warfare, which would reflect no added glory upon American arms, it would offer a dangerous temptation to annex territory which we do not need and a population which we can not assimilate or absorb. Above all this even, perhaps it would dishonor us as a Christian nation for engaging in a useless and preventable conflict with a comparatively helpless people.

"PRESIDENT'S PLAN.

"These, as they present themselves to me, are the fundamental principles which govern President Wilson in his course with Mexico. To carry them out, his plan has been to give the Mexican people an opportunity to settle their contentions among themselves, to refuse to intervene, which would mean war, in the contest, and to decline recognition of the government of Huerta. Obviously it is the wise course to allow the Mexicans to adjust these differences themselves if they can do so without encroachments upon our rights or where cruelties are not so widespread and revolting as to raise a question of broad humanity. This is the American doctrine of local self-government and national autonomy.

"So far the situation has not justified the United States in interposing in the contest, because no invasion of their rights has occurred which can not be adjusted short of war, and the cruelties practiced have been sporadic rather than general, not reaching the stage, as in Cuba in 1898, where a whole people were threatened and involved. The latest incident, at Tampico, where seamen of the United States were arrested, while it was the culmination of indignities offered to the United States, was manifestly an act which was adjustable short of war, and which, when satisfactory reparation was not made on demand, the President was warranted in redressing by reprisals and seizure of ports.

"The principal complaint in some quarters, however, is that the President should have recognized Huerta, and it is claimed that if he had done so the rebellion would long ago have been suppressed. Whether such action would have followed recognition of Huerta, in view of subsequent events, is extremely doubtful. It is true the President would have had precedents had he recognized Huerta as the head of the de facto Government of Mexico, but the United States established precedents in government for themselves, and for one I am proud that we had a President who in this instance went directly to the root of things and declared the wholesome and godly doctrine that treachery and assassination would find no refuge here."

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had, on May 2, 1914, approved and signed the following acts:

S. 656. An act granting to the trustees of the diocese of Montana of the Protestant Episcopal Church, for the benefit of "Christ Church on-the-Hill," at Poplar, Mont., lots 5, 6, and 7, in block 30, town site of Poplar, State of Montana; and

S. 3403. An act to abolish the office of receiver of public moneys at Springfield, Mo., and for other purposes.

CHESAPEAKE & DELAWARE CANAL.

Mr. SAULSBURY. Mr. President, I desire to give notice that on Friday next, the 8th instant, after the remarks of the Senator from West Virginia [Mr. GOFF], I shall address the Senate briefly relative to the Chesapeake & Delaware Canal.

AFFAIRS IN MEXICO.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a previous day, which will be stated.

The SECRETARY. Senate resolution 349, by Mr. LIPPITT.

The VICE PRESIDENT. The resolution has been read.

Mr. LIPPITT. Mr. President, I have presented this resolution to the Senate and I should like to have immediate consideration of it. I have done so because the suspicion that our Government is aiding or abetting or conniving at or even condoning the atrocities of the villainous Villa is so sickening a suggestion to me that I have been loath to believe that it can possibly be true. But the circumstances that are continually coming to our attention, the expressions of opinion and belief on the part of people close to the administration have been so frequent that it is being forced upon me that the purpose of the Mexican policy of the administration is to do some such thing as has been expressed in the article which accompanies my resolution.

The policy the President intended to pursue toward Mexico was very plainly set forth by him in the message he submitted to Congress. In his message of August 27, after calling attention to the friendship this country had and ought to have for the Mexican people and our desire to aid and assist them in every possible way, he goes on to say what our duty is under those circumstances.

It is now our duty—

He says—

to show what true neutrality will do to enable the people of Mexico to set their affairs in order again and wait for a further opportunity to offer our friendly counsels.

Later on in the same message he says:

I deem it my duty to exercise the authority conferred upon me by the law of March 14, 1914, to see to it that neither side to the struggle now going on in Mexico receive any assistance from this side the border.

Further on:

We can not in the circumstances be the partisans of either party to the contest that now distracts Mexico or constitute ourselves the virtual umpire between them.

He also says:

We should let everyone who assumes to exercise authority in any part of Mexico know in the most unequivocal way that we shall vigilantly watch the fortunes of those Americans who can not get away, and shall hold those responsible for their sufferings and losses to a definite reckoning.

Then he says:

That can be and will be made plain beyond the possibility of a misunderstanding.

That message was read on the 27th of August, and in it the President says that a definite reckoning can be had. Up to date, however, no attempt has been made to get any recompense for the people who have been suffering by the loss of their property and the death of their relatives in the struggle in northern Mexico. No later than two weeks ago Monday, April 20, in the message which the President read to the two Houses of Congress, after reiterating his great desire to be the friend of Mexico and to help them he again asserts the duty of impartiality. He says:

The people of Mexico are entitled to settle their own domestic affairs in their own way, and we sincerely desire to respect their right.

Nevertheless he says in another part of the same message that—

If armed conflict should unhappily come as a result of his attitude—

Referring to Huerta—

of his attitude of personal resentment toward this Government, we should be fighting only Gen. Huerta and those who adhere to him and give him their support.

Mr. President, when I consider those statements of the purpose of this administration and of our Government toward the distracted people of Mexico, and when I see the acts that are being performed from day to day in connection with those circumstances in Mexico, I confess that I find my mind in a maze. The contradiction between what is done and what is said ought to be done is so great that I almost feel that I am going hand in hand with Alice among the tipsy-topsy conditions of Wonderland.

The facts are that in the one part of Mexico, a very large part of Mexico, there has been peace and order, so far as I know, during the entire year now passed. In another part of Mexico there has been a perfect carnival of crime and carnage, such a carnival as in modern times we can not find a parallel to, a carnival whose confetti has been flying bullets and whose cheers have been changed into the cries of dying men and women; and those flying bullets, Mr. President, have been American bullets fired from American guns that we have sent across the American border and put into the hands of Mr. Villa and his associates with the consent and the approval and the encouragement of the President of the United States.

It is impossible for me to see how we are observing the strict duties of neutrality when we take action such as this.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Nebraska?

Mr. LIPPITT. Yes; Mr. President.

Mr. NORRIS. I wished to ask the Senator if he thought it was good practice for the Senate to call on the President——

Mr. LIPPITT. Mr. President, I am going to say only a few words more, and I will answer the question of the Senator in those few words.

Mr. NORRIS. I have not yet finished asking it.

Mr. LIPPITT. Very well; I will listen to the Senator's further question.

Mr. NORRIS. I wanted to ask the Senator whether he thought it was proper for the Senate to pass a resolution which in effect asks the President of the United States to answer an item appearing in a newspaper, regardless of what the conditions may be anywhere?

Mr. LIPPITT. I supposed that was the question the Senator was going to ask. When I interrupted him, I thought he had finished his question. I will answer it in just a minute or two.

I was saying, Mr. President, when I was interrupted, that the conditions which seemed to exist in Mexico were such and the acts that we have taken in connection with them were such as made our professions of neutrality seem very insincere.

I had just referred to the effect of American arms going over our border and coming into the hands of the insurrectionists.

Two weeks ago, in connection with the incident in Tampico, brought about by the overzealous action of a subordinate of the Mexican Government, Congress was asked to pass in the utmost haste an act of approval of the course of the President; and we were told that the reason why such haste was necessary was because the Government wished to seize the customhouse at Vera Cruz for the purpose of preventing the landing at that port of the cargo of a German ship then about due, consisting of a large consignment of arms and ammunition destined for Gen. Huerta and that part of the Mexican people whom he represented.

Even while the Senate was deliberating upon what course we thought should be pursued in the matter, the President was so anxious to prevent the landing of this cargo that he took upon himself the responsibility of acting without waiting to hear the result of our deliberations. Even while this matter was being discussed here in the Senate on Tuesday night a fortnight ago we received the news of the landing of our sailors and marines at Vera Cruz, of a battle, if it may be dignified by that term, that occurred, of the death of some of our own people, and of the death of some 200 innocent Mexican people, civilians largely, who had had no connection with any offensive action toward our Government. In short, Mr. President, we find in these two actions an apparently definite purpose to aid and assist the people who are responsible for the atrocities in the north of Mexico and to discourage and impede those who have maintained law and order in and around that part of Mexico which adjoins the City of Mexico.

Mr. President, I am bringing this matter up for this purpose: The Senator from Nebraska [Mr. NORRIS] has asked me why I dignify a newspaper report by asking the President to reply to it. I am dignifying that newspaper report because it represents and voices rumors and things that are more direct than rumors which are current all through the city of Washington, indicating that the President of the United States and his advisers are in every way in sympathy with the progress of Gen. Villa's army and are hoping for its success. If that is the policy of the administration, it seems to me that we should have it plainly set before this body.

Mr. President, we are liable at almost any minute to be called upon to act upon what may be the most important question that will ever come before any of the men who now sit in this body, a question of declaring war against the Mexican people or against some part of the Mexican people, a war whose termination it is not in the power of any man to foresee. At any moment some unfortunate incident may occur that will so inflame the minds of our own people or of the Mexican people, or perhaps of some other nation whose affairs are being inextricably mixed up with the Mexican situation, that we can not deliberate upon our course with calmness and in the manner that such a question should be approached. In the message which the President delivered here two weeks ago he said:

> I do not wish to act in a matter possibly of so grave consequence except in close conference and cooperation with both the Senate and House.

Mr. President, the time for conference is to-day, while we can consider these questions without the pressure of warlike excitement; and it seems to me it is the duty of this administration, which to a peculiar degree is pledged to frankness and to candor, which is pledged to candor to a degree that no other administration that ever occupied the White House has been pledged—I say it is the duty of that administration to speak to this body, to the American people, and to the people of the whole world in such a way that there shall be no misunderstanding and no secrecy about the position which we occupy on this very grave subject.

I am aware that I am but a single Member of this body, but as a Member of this body I want to do my duty in regard to this very momentous question in the very best way I can; and with that desire and duty prominent in my mind, I say now that there is no way in which it can be properly exercised unless complete information is laid before this body as to what has occurred in the relations of this Government with Gen. Villa and Mr. Carranza and the people whom they represent, of what negotiations have occurred between them, of what instructions were given to William Bayard Hale when he went as the envoy of the President to confer with them, of what correspondence is going on now, and a presentation of this whole matter in such a way that we shall know exactly on what premises we are acting, and therefore shall be able to decide with wisdom what our course should be.

I trust the resolution will have favorable consideration.

Mr. STONE. Mr. President, the Senator from Nebraska [Mr. NORRIS] asked a pertinent question, whether the Senator from Rhode Island [Mr. LIPPITT] thought it proper for the Senate to call upon the President to make formal answer to newspaper items, whether in the form of news, so called, or in the form of editorials. Of course it is not a proper thing for the Senate to do, and, Mr. President, I had supposed that every Senator knew that; I had supposed that even the Senator from Rhode Island knew that much. The Senator presented this clipping from a Washington paper, known to be intensely hostile to the President, that he might make it the basis of what he supposes to be an attack upon the administration.

Mr. President, I care nothing especially about Villa. I think it true that many things he is reputed to have done deserve condemnation. The Senator from Rhode Island denounces Villa and those with whom he is associated. I do not defend them, neither do I approve of the defense the Senator from Rhode Island seems disposed to make of Huerta, who is not only guilty of treason, but whose hands are red with the blood of his chieftain who trusted him.

The Senator speaks of the occurrence, the unfortunate occurrence, at Vera Cruz. He seems to think that this Government is not justified in the course taken there, although Congress in advance—at least the House in advance—gave to the President its consent and approval to take such action as might be necessary to vindicate the honor of our flag; and the whole Congress has approved of what he did, except, possibly, the Senator from Rhode Island, who now speaks in disparagement of what was done.

Mr. LIPPITT. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Rhode Island?

Mr. STONE. Yes.

Mr. LIPPITT. Mr. President, I simply want to say that I think there was nothing in my remarks that expressed either approval or disapproval of what was done there in regard to the incident of the boat crew of American sailors. I simply called attention, or meant to call attention, if I expressed myself as I intended, to the fact that extraordinary haste was demanded for the purpose of preventing a supply of ammunition being received by one of the contestants in the Mexican situation.

Mr. STONE. I know what the Senator said.

Mr. LIPPITT. I do not want what I said to be twisted into something that I had not at all in my mind to discuss, and I think I did not discuss.

Mr. STONE. The Senator did criticize; if he did not mean to criticize, I confess my inability to understand him. He did criticize what was done at Vera Cruz, and lamented, as all of us do, the loss of American lives in the conflict there. Then he proceeded to charge against the administration the guilt of taking the lives of some 200 innocent Mexicans. The "snipers," who were firing at our boys from cover night and day, in violation of all the known rules of civilized warfare, making themselves liable to court-martial if captured, the Senator from Rhode Island seems to regard as "innocent Mexicans" for whom our hearts should pour out a flood of sympathy.

Mr. President, the Senator says that we were overhasty in taking possession of the customhouse at Vera Cruz because a German vessel was approaching laden with arms and munitions of war for Huerta's army. There is no doubt that the fact that that vessel was due at that port hastened the action taken by the administration. For myself I stand here to approve what the President did. We were then in an acute controversy with the Huerta government, for reasons well understood; we had made a peremptory demand upon Huerta, which had been insolently refused, and the President was taking the only means at his command to enforce the ultimatum or to punish Huerta and his following for what they had done.

The Senator from Rhode Island criticizes and blames the President for what he did. The Senator thinks that the administration should have sat quiet and remained inactive and per-

mitted rapid-firing guns and field cannon and rifles and millions of rounds of ammunition to be delivered into the hands of Huerta's men to be used against our flag and our soldiery when they were about to land and take possession of Vera Cruz. The Senator would seem to be in deep sympathy with the Mexicans because of this deprivation. I am sorry to find a Senator on this floor in that state of mind and heart.

Mr. LIPPITT. Mr. President, while the Senator from Missouri is growing indignant over the situation of a cargo of arms arriving at Vera Cruz, will he also tell us whether he approves of the permission that has been in force for several months by which American arms have been put into the hands of all the rebels in northern Mexico, which will just as distinctly and inevitably be turned against this Government as any other arms that are in Mexico? Let us have a little consistency here.

Mr. STONE. Oh, Mr. President, the Senator can defend Huerta if he wishes to do so; he can put his senatorial arm about him and hold him up as one deserving of praise if he wishes to do so. I am not defending either Huerta or Carranza.

The Senator wishes to know about the order of the President raising the embargo on the exportation of arms across our southern border. Mr. President, the Senator seems to forget, if he ever knew it, or knowing, seems to ignore, the fact that until we took possession of Vera Cruz arms and munitions of war manufactured in the United States were just as accessible to Huerta and his forces as to Carranza and his forces after the embargo was raised. As for that, the doors had always been open to Huerta; they had never been closed against him until now.

The Senator says we should not have lifted the embargo and let American arms and munitions go across the Rio Grande into the hands of the constitutionalist forces; that those guns are now turned upon Americans; that the bullets with which these people in northern Mexico are slaying Americans are American bullets. Mr. President, as a matter of fact, I have not known that any of the arms allowed to be imported into northern Mexico from the United States have been used against American troops or citizens. When and where has anything of that kind been done? If the Senator had confined himself to a possible situation—that is, if he had said that these arms might in future be used against us in case of war between this country and the Carranza-Villa forces—he would have been nearer correct. So far, however, the people who received these arms crossing the Rio Grande have made no demonstration of hostility against the United States, but up to this time have maintained a strict neutrality in our conflict with the Huerta government.

The Senator, however, is so possessed of partisan bias and spleen that he could not let pass an opportunity to incorporate in the RECORD an attack upon the President of the United States, and to make that attack the basis of observations that are out of place here at this time. Mr. President, it is absolutely silly to think of calling upon the President of the United States to answer such newspaper articles as that the Senator has recited in his resolution. Why, if that is permissible, if that sort of thing is allowed, then Senators who feel like the Senator from Rhode Island can every day clip from the newspapers things of a similar kind and call upon the President to say whether in fact they are true; in other words, they can have the President of the United States constantly before the Senate answering newspaper attacks upon him, perhaps anonymous attacks, or maybe attacks made under the authority of the management of the papers themselves. Such a procedure would be not only absurd, it would be absolutely silly.

I move to lay the resolution on the table.

Mr. CLARK of Wyoming. Mr. President, will the Senator allow me just a moment before making that motion?

Mr. STONE. Yes.

Mr. CLARK of Wyoming. I wish to ask the Senator a question.

Of course we are all intensely interested in the situation in Mexico—all of us, from the President to the humblest citizen of the Republic, the President perhaps not more so than some others. This resolution perhaps is subject, perhaps not, to the criticisms showered upon it by the Senator from Missouri, the chairman of the Committee on Foreign Relations. While the resolution calls attention to the newspaper clipping, the purpose of the resolution is, if possible, and if not incompatible with the public interest, to get some idea of the position which the President and his administration assume in regard to the forces and the conditions in northern Mexico.

It is rumored, as the Senator knows—and we can get nothing except from the newspapers or rumors, because neither the President nor his administration nor the Foreign Relations Committee nor its chairman have taken the country into their confidence as to the conditions that exist there, and the relations that may or may not exist between this administration and the Villa forces—there is a well-defined notion, which I fear is growing by reason of not being contradicted or by reason of not being openly discussed, that there is some sort of an arrangement whereby the Government of the United States in some way is bound up in the fortunes of the constitutionalists of Mexico.

What I wish to ask the Senator before the motion is made is whether the Senator is in a position where he can give us any information as to what situation we are in with regard to the Carranza forces? We know, of course, how we stand in regard to Huerta and his forces. Is there any information that a long-suffering and patient Senate can have at this time from the information which the Senator himself perhaps possesses as to the situation of this country with regard to the Carranza forces?

Mr. STONE. Mr. President, it grieves my heart to know that my friend from Wyoming is oppressed with the thought that there is a growing fear among the people that the administration is doing something wrong and indefensible.

Mr. CLARK of Wyoming. Mr. President——

Mr. STONE. I think I can reassure the Senator, and perhaps relieve to some extent his apprehension——

Mr. CLARK of Wyoming. If the Senator can do so, I shall be glad to have him.

Mr. STONE. By expressing a very emphatic opinion that the American people are not disturbed, not uneasy, not apprehensive that the President of the United States is going to commit, much less that he has committed, any act to the discredit of this Government.

Mr. CLARK of Wyoming. The very definite assurance of the Senator in relation to that matter is very satisfactory. [Laughter.]

Mr. STONE. I thought I could satisfy the Senator. [Laughter.]

Mr. President, one word as to the question, What are the relations between the United States and Mexico? I had supposed everybody knew that, especially that an American so astute, studious, and well informed as the Senator from Wyoming knew it. If he does not know it, however, I will give him further assurance in order to quiet his dread apprehensions.

We are in possession of Vera Cruz. We have landed there a force of soldiers and marines, and we are holding that city. Our quarrel is with Huerta and Huerta's forces, because of what they had done. We have taken possession of Vera Cruz as an incident to or as a result of our conflict with the Huerta government. We have no alliance or war with Carranza. Carranza and his forces are at war with Huerta, not with us. If they care to prosecute that war without taking any step hostile to this Government and our people, I do not believe it is the desire or intention of the administration, or of this Congress, or, with few exceptions, of the people of the United States to force a war with the Carranza and Villa forces. If they continue in their present course, I confess I can see no reason for opening hostilities with them; and I do not think any hostile movement on our part will be made against them so long as they attend to their own affairs and go on along the lines they are now following and have declared it to be their purpose to pursue.

Another thing which perhaps the Senator is not aware of is that the representatives of three Latin-American countries, the three principal ones, are now engaged, with the consent of this Government and Gen. Huerta, in an effort to bring about an adjustment of all the troubles in the Republic of Mexico, with the hope that an orderly Government may be established there and peace preserved.

I renew my motion.

The VICE PRESIDENT. The question is on the motion to table the resolution.

Mr. LIPPITT. Mr. President, will the Senator withhold that motion for just a minute?

Mr. STONE. I will not. I move to lay the resolution on the table.

The VICE PRESIDENT. The question is on tabling the resolution.

The motion was agreed to.

PANAMA CANAL TOLLS.

Mr. O'GORMAN. I ask unanimous consent that the canal bill may be laid before the Senate in order that the Senator from Kentucky [Mr. BRADLEY] may address himself to that measure.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. BRADLEY. Mr. President, the issue presented in the proposed repeal of free tolls is not and can not be made political. Even if it had been political, it passed beyond the realm of politics when, in 1912, the three leading political parties indorsed the exemption of coastwise vessels from tolls. But if this were not true, the issue is of such paramount national importance that it is as far above politics as the stars are above the sea.

A distinguished Representative has said that in the consideration of this question, "towering above all other considerations, is the necessity to retain the Democratic Party in power." I regret that such a thought should have ever entered the brain of any American, much less have found utterance. For a half century I have persistently fought, the greater portion of the time against seemingly overwhelming odds, for the Republican Party. I love that party with almost an idolatrous devotion, but, much as I love it, I would rather see it go down in defeat than see a stain placed upon the honor and glory of the Republic.

The only question presented, Mr. President, is shall we gratify the President and reverse 100 years of national policy by surrendering the sovereign right to control our domestic concerns into the hands of an insatiable foreign power?

I fear there are some who do not appreciate the true gravity of the situation. The bill under discussion not only repeals the provision exempting coastwise vessels, but repeals the provision granting exemption to vessels of the United States and her citizens from the maximum charge of $1.25 per ton on ships of commerce. Therefore, should this bill pass, this Government will be placed upon exact equality with all other nations. However, substantial as these concessions are, they will not satisfy Great Britain, who protests against the exclusion of her railroad or trust owned ships from the canal and against free tolls to Panama. By the last objection she strikes at the very existence of the canal, as under its provisions we secured title from Panama to the territory through which the canal is constructed.

For these reasons the issue involved is one of the most vital and far-reaching importance that has ever been presented to the Congress of the United States. Upon its fate depends our right for all time to come to regulate a canal constructed on our own territory and paid for by our own people. Once surrendered we can not regain it, for by enacting the law we confess the violation of a solemn treaty, the commission of a dishonorable act.

The canal will cost the enormous sum of $400,000,000. The extent of that expenditure may be realized when we reflect that to aggregate that sum it would require an accumulation of $1,000,000 each year for 400 years.

The construction of a canal at some point across the Isthmus has been the dream of centuries, and no nation on the globe save this would have had the courage, the genius, the enterprise, and the ability to make that dream a reality.

If in the beginning the people of this country had known the vast sum required to construct it and had believed for a moment that after the payment of that sum we would be charged with its management, repair, and defense, and would make all nations entirely equal with our own in sharing the benefits, it never would have been undertaken.

I am as much in favor of strictly observing the Nation's honor as any Member of this body, but I do not believe there is any foundation for the charge that in enacting the present law Congress was guilty of violating the treaty in the slightest degree. I am equally well satisfied that the passage of the proposed bill will not only prevent the enlargement of our merchant marine, but will seriously cripple our already insignificant and languishing commerce. Not only so, but I am equally confident that it will swell almost incalculably the already enormous commerce of Great Britain and deliver us, bound in commercial chains, into her hands and the hands of the great transcontinental railroads of Canada and the United States.

But the matter of dollars and cents fades into insignificance when we reflect that a repeal will be an acknowledgment of the criminal bad faith of Congress and an humble and servile surrender of the sovereign right to control our domestic concerns.

Never has there been, concerning any public question, such persistent efforts made to becloud the facts and mislead the public mind, not only as to the meaning, but also the wording, of the Hay-Pauncefote treaty. The transcontinental and shipowning railroads have at all times bitterly opposed the construction of this canal and are now actively engaged in the effort to repeal, because they know that water competition will greatly reduce the vast profits they have been accumulating for years and release the people from their greedy clutches. Another agency has been at work—the Carnegie Peace Foundation. Many thousands of dollars have been contributed by the latter to send broadcast over the Nation and countries abroad literature favoring Great Britain's contention in the attempt to convince the people that the Congress of the United States could not and did not honestly exempt American coastwise vessels from toll. Nor has this expenditure been confined alone to the Peace Foundation in the dissemination of literature and in other directions. The transcontinental railroads of Canada and the United States and railroad and trust-owned ships have been actively engaged in the same direction. In the first place, a number of newspapers were induced, through misrepresentation, cajolery, and otherwise, to publish articles favorable to the British view. Ministers of the gospel, inspired by love of peace and fear of war, expressed themselves favorably, in many instances having either not read or understood the treaty; and a considerable number of college professors, in many instances to obtain notoriety, and probably in some instances to qualify themselves for the receipt of a Carnegie pension, expressed themselves antagonistically to their own country. Now and then a lawyer was persuaded to give an opinion. Some of these persons were never heard of before. After all of these expressions were obtained, they were carefully collated and published in pamphlet form, at least three enlarged editions of which were printed and circulated by the million throughout the United States and other countries. This plan was well conceived and was not only carried out in part before the law was enacted, but has been persistently prosecuted since its passage up to the present time. The passage of the law seemed to have had no effect on the ardor of this propaganda, its fight having been persisted in with increased vigor. The full effect of these publications can not well be estimated.

Mr. Andrew Carnegie, who came here from Scotland a poor office boy and succeeded in acquiring a collossal fortune, has founded what is known as the Peace Foundation, which is combined, I am told, with a publication known as the Peace Advocate. Thousands of this publication, in addition to pamphlets issued by the foundation, have been circulated throughout the United States and in foreign lands, especially Great Britain.

Mr. Carnegie conceived the idea some years ago of uniting this country with Great Britain under the name of the "United States of Great Britain," and selected these agencies to bring it about, operating at all times in the sacred name of peace (?). He has been active and untiring, whether entirely on his own responsibility or as the agent, in part, of Great Britain I can not say. In order to impress his views favorable to a union of this country and Great Britain he wrote and published, about a year ago, a book entitled, if I remember correctly, "Triumphant Democracy," the second part of which is designated "A Look Ahead." In this remarkable publication he said:

> The greater union would be one in which although she—England—would not be all powerful, yet she would *undoubtedly be first*, and regarded with all the deference due to age and motherhood.
>
> Numerous as would be the States comprising the reunited nation, each possessing equal rights, still *Britain, as the home of the race, would ever retain precedence*, first among equals. However great the number of the children who might sit around her in the council *there would never be but one mother, and that mother Britain.*

He would have us ignore the nations whose brave sons assisted in our struggle for liberty. He would have us forget the kindly offices of Russia, who prevented Great Britain from recognizing the independence of the Southern Confederacy, not because she loved the South, but to separate our country so that it might more easily be the prey of her insatiable greed, and in gratitude to Great Britain for the wrongs inflicted upon this Nation in the past form a union offensive and defensive against them. And this man Carnegie, hand in hand with the shipowning and transcontinental railroads and the coterie that surrounds him are attempting to persuade American citizens to surrender the sovereignty and honor of their country.

Not only have misrepresentations been made in many instances, but mutilated portions of the Hay-Pauncefote treaty as well as portions of the Clayton-Bulwer treaty, which had no force because expressly superseded by the first-named treaty, have been scattered promiscuously over the country. Whenever any individual indorsed their views he was at once advertised as a most wonderful and learned man, and in this way many hitherto comparatively obscure persons have been surprised to hear for the first time their varied and distinguished accomplishments through the public press. Some slanderers have even gone so far as to say Mr. Roosevelt opposed free tolls, notwithstanding the fact that he has time and again vigorously stated the contrary, accepted a nomination for Presi-

dent on a platform declaring in favor of free tolls in good faith, made a campaign on that platform in good faith, and to-day continuing that good faith stands by his platform.

Showing the character of the methods that have been resorted to, newspapers have in many instances published as correct the following as part of the treaty:

The canal shall be free and open to the vessels of commerce of all nations on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise.

In the first place, it will be observed that the words "*and of war*" following the words "vessels of commerce" were omitted, for if inserted they would most naturally suggest to every reader that it was preposterous that this Government would agree that all the war vessels of foreign countries should have equal rights with its own.

In the second place, the words "*observing these rules*," following the words "all nations," were omitted, because if inserted they would naturally suggest that certain rules were to govern, and on inquiry it would be found that these rules were prescribed by the *United States alone for the government of her own canal;* and that the United States, having provided the rules under which her canal should be free and open to the vessels of commerce and war of all nations observing her rules, was necessarily not included in the expression "all nations," as she could not be expected to make rules for the government of herself. Many good people have been misled by this false publication and in consequence prejudiced against free tolls.

But notwithstanding the large sums of money expended by the Peace Foundation and the transcontinental and other railroads in the dissemination of literature, and notwithstanding the misrepresentations in the public press, the large majority of the newspapers, the large majority of leading statesmen, including a majority of the Congress of the United States, the three leading political parties, and fourteen millions of voters have indorsed the granting of free tolls to the coastwise vessels of the United States.

To the confusion of the American people it has been stated in certain newspapers and magazines, in Congress, and other places that because the Bard amendment offered to the treaty, striking out article 3 and substituting a new article giving the United States "the right to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade," was defeated in the Senate that it necessarily follows the Senate surrendered that privilege.

That amendment was offered by Senator Bard to the *first* Hay-Pauncefote treaty, of February 5, 1900, which was amended and ratified by the Senate, but rejected by Great Britain, and has no reference to the existing treaty, on account of which we might contend that Great Britain refused to accept the treaty because the amendment was not adopted with as much earnestness as our adversaries make their contention.

The Senate was in secret session when the Bard amendment was defeated, and hence, under the rules, remarks of Senators were not reported. But the contention that the defeat of the Bard amendment was the surrender by the Senate of all claim by the United States to discriminate in favor of its coastwise vessels is not only contradicted by the treaty itself, which is amply specific, but by the testimony of Senators then present. Ex-Senator Bard says:

When my amendment was under consideration *it was generally conceded* that even without that specific provision the rules of the treaty would not prevent our Government from treating the canal as part of our coast line, and consequently could not be construed as a restriction of our interstate commerce forbidding the discrimination in charges for tolls in favor of our coastwise trade, *and this conviction contributed to the defeat of the amendment.*

Senator LODGE, one of the 11 Senators who voted against toll exemption and who now favors its repeal, said, July 20, 1912, in open Senate, in speaking of the Bard amendment:

I voted against it in the belief that it was unnecessary; that the right to fix tolls, if we built the canal, or it was built under our auspices, was undoubted. *I knew that was the view of Senator Davis—*

Now dead—

who was at the time the chairman of the committee. I certainly so stated on the floor.

I personally have never had any doubt that the matter of fixing tolls must necessarily be within our jurisdiction, and when I referred to going to The Hague as useless, I did not mean because our case was not a good one. I meant because, in the nature of things, we could by no possibility have a disinterested tribunal at The Hague.

Senator CLAPP, July 17, 1912, in the Senate, in speaking of the Bard amendment, said:

I know I was here at the time, although I do not recall all of the speeches. But while some of us voted—insisting in some instances that these things should be explicit, and in others voting with the majority upon the ground that they were covered, anyhow. I believe, both with reference to the coastwise trade and especially with reference to the question of fortifications, that many of the votes cast against those express conditions were cast upon the theory that without them we nevertheless had the right to do them.

Mr. O'GORMAN. That the provisions were unnecessary.

Mr. CLAPP. Yes; that they were necessary.

Senator PERKINS stated, August 6, 1912, in the Senate:

I wish to state that Senator Davis, of Minnesota, was at that time chairman of the Committee on Foreign Relations. He was, as is conceded by all, an authority on international law, and took the view stated by the Senator from New York, and that stated by the Senator from Washington. There is no question about it, that the rules we did make were to govern other nations than ourselves.

On March 6, 1914, the Washington Post published an interview with ex-Senator Marion Butler, of North Carolina, as follows:

I remember that when the article of the treaty was under consideration which provides that the canal shall be open to the vessels of all nations on the same terms, that several Senators suggested the propriety of adding a provision expressly exempting our domestic commerce through coastwise vessels.

The prompt response to this proposition on the part of the Senators having the treaty in charge was that such an amendment was unnecessary, because the treaty was so understood by the contracting parties.

Similar statements have been made by ex-Senators Foraker, Beveridge, Towne, Turner, Kearns, Deboe, Dubois, Pritchard, Mason, and CLARK of Wyoming—15 in all.

The testimony is overwhelming that the opinion then was that the treaty as written secured the right embraced in the amendment.

Before the tolls law was passed, but after its provisions were well known, Mr. Innes, of the British embassy, in a communication to Secretary Knox, July 8, 1912, said:

As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make certain that only *bona fide* coastwise traffic, which is reserved for the United States vessels, would be benefited, it may be no objection could be taken. * * *

I digress a moment to remark that ample testimony has recently been given before the Interoceanic Canals Committee that such a regulation can be made.

In another portion of his communication Mr. Innes says:

The proposal to exempt all American shipping from payment of the tolls would, in the opinion of His Majesty's Government, involve an infraction of the treaty, nor is there, in their opinion, any difference in principle between charging tolls only to refund them and remitting tolls altogether. The result is the same in either case, and the adoption of the alternative method of refunding the tolls in preference to that of remitting them, *while perhaps complying with the letter of the treaty*, would still contravene its spirit.

It is true *there is nothing in the Hay-Pauncefote treaty to prevent* the United States from subsidizing its shipping, and if it granted a *subsidy His Majesty's Government could not be in a position to complain.*

Now, it will be observed that, taken all in all, this is a very mild and insufficient protest, as well as very unreasonable, coming from a Government that for years has subsidized its vessels and which will continue to subsidize every vessel which it sends through the canal, and which gave subsidies to its ships years ago in violation certainly of the spirit of its treaty with the United States.

Following the communication of Mr. Innes on November 14, 1912, nearly three months after the law had passed, Sir Edward Grey, Secretary of State of Foreign Affairs of Great Britain, before he had seen the proclamation of President Taft, published the preceding day fixing the rate of tolls, addressed a letter to the State Department, which the British ambassador handed to Secretary Knox on the 9th of December, along the lines of the previous communication from Mr. Innes, but greatly elaborating the same and discussing objectionable portions of the toll-exemption law approved August 24. In this letter he suggests submitting the question to arbitration, which was substantially agreed to by Secretary Knox.

While these negotiations, which gave promise of probable early adjustment, were pending, and before Secretary Knox answered the letter of Secretary Grey, the enemies of free tolls in America actively increased the dissemination of literature, and a bill was introduced to repeal the law. This most naturally resulted in the encouragement of Great Britain. This Foundation, operating in the holy name of peace by sending out its seditious matter, was doing an act which eventually may cause war.

On January 17, 1913, Secretary Knox answered the letter of Secretary Grey in such a lucid and convincing manner as to scatter his contentions to the winds. The effect of this answer, however, was greatly weakened by the persistent activity of some of our own people.

Now, arbitration can not be thought of, for under the dictation of the President an attempt is being made to repeal the law, thereby conceding everything to Great Britain.

There are some who profess to believe that exemption of our coastwise vessels would be a subsidy. So far as I am concerned, I would not approve subsidies except in self-defense. Had we adhered to the laws adopted by our fathers instead of being wheedled out of our rights by Great Britain, or, having

failed in this, had we adopted subsidies, we would not be compelled now to pay foreign ships more than $175,000,000 annually for carrying our commerce, but would ourselves be carrying all of it and a great part of the world's commerce besides. Eventually, in order to develop our merchant marine, we must pay subsidies or repeal our navigation laws, abrogate the treaties made thereunder, and return to the system of discriminating duties established by the fathers and recognized in the tariff bill lately adopted.

Excluding the cost of the Panama Canal, we have expended more than $700,000,000 in the construction of canals and the improvement of rivers and harbors in which no tolls have been exacted. Democrats have universally voted for appropriations for this purpose. All of this has been done to relieve our commerce.

The exemption from tolls to our own vessels passing through our own canal is not, in the strict sense of the word, a subsidy. But if it is a subsidy, then the exemption from toll on our rivers and in our harbors and canals—for instance, in the Soo Canal, whose commerce greatly exceeds any that may be anticipated in Panama—is also a subsidy.

We all know that subsidies are unpopular with many of our people, and hence appreciate the artfulness of the position assumed by Secretary Grey that Great Britain could not object to the adoption of subsidies as applicable to the canal. He knew that the mere mention of the word "subsidy" is as exciting to some citizens of the United States as a red flag is to a bull.

But it is strange that for so many years we have relieved interstate commerce from payment of tolls in all our own waters and heretofore no attempt has been made to denominate it as a subsidy. It is strange it took our Democratic friends so long to discover that these were subsidies. If we are, on the plea of a subsidy, to obtain no benefit in the Panama Canal, in order to be consistent we should give no benefit to our ships in any of our waters, but should have the Government authorities collect tolls from all our citizens engaged in water interstate commerce, thus increasing the cost of transportation to the consuming public.

So far as the canal is concerned, if we pass this bill we shall, of course, draw infinite consolation from the fact that we have encountered and conquered pestilence, have removed mountains, have accomplished the most wonderful engineering feat known among men, have by a majestic construction united the two oceans at the enormous expense of $400,000,000, have bound ourselves to maintain the neutrality of the canal against the world, have expended and will continue to expend many millions in fortifying and policing the same and keeping it in repair, all for the benefit of the other nations of the world as much as for our own, they to reap substantially all the benefits on account of the limited amount of our commerce when compared to theirs, without any expense or responsibility, while we bear all the burdens. However, in the language of Ambassador Page, we may say to Great Britain that—

> It adds to the pleasure of the building that great work that you will profit by it.

But the exemption to coastwise vessels is not a subsidy. The lexicographers tell us that a subsidy is "a sum of money granted for a purpose." Pray tell me how the exemption of interstate vessels from the payment of tolls in our own canal can be tortured into the payment of a sum of money granted to them. We pay them no money. We simply allow them to use our property without the payment of money to us. And why? Is it for the purpose of swelling the fortunes of those engaged in our coastwise trade? By no means, but for the purpose of cheapening freights to our people. If an American coastwise vessel pays, say, $6,000 for the privilege of passing through the canal, that amount will be added to cost of freight and be paid by the American consumer if the goods are shipped into the interior; by the producer if they are shipped outside the interior. Instead of remitted tolls being a subsidy to the shipowner it is a benefit bestowed on the American people. A subsidy, however, would be far better than a surrender of our rights and the injury or destruction of our commerce.

The transcontinental railroads of the United States and Canada have not only had entire control over commerce shipped from coast to coast, but upon a large percentage of the commerce moving from the interior to the coasts and have ruled with a rod of iron. They see in the exemption of coastwise ships from toll a serious menace to their monopoly. Hence their representatives have appeared before the Interoceanic Committee and vociferously protested against it. The present law closed the canal against ships owned by these and other railroads for the purpose of preventing them from perpetuating their monopoly; in other words, to bring about an active competition between land and water transportation. No sane man can doubt that should the law remain in force, by reason of the great difference between land and water rates immense benefits will accrue to the people of the United States. This has been fully established by proof recently before the committee. But without enlarging now on this point, I refer to a speech of great power, a speech of a distinguished man, President Wilson, at Washington Park in the campaign of 1912, which will hereafter be quoted at length. Speaking of the good that will result from the present law which he now seeks to have repealed, he said:

> It provides for free toll for American ships through the canal and prohibits any ship from passing through which is owned by any American railroad company. You see the object of that, don't you? We don't want the railroads to compete with themselves, because we understand that kind of competition. We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent. [Applause.]

The people were pleased with the speech and Mr. Wilson was pleased with himself.

> The farmers of this country are, in my judgment, just as much concerned in the policy of the United States with regard to that canal as any other class of citizens of the United States.
>
> Everything that is done in the interest of cheap transportation is done directly for the farmer as well as for other men. So that you ought not to grudge the millions poured out for the deepening and opening of old and new waterways. [Applause.]

The people were still pleased, and so was Mr. Wilson.

Nearly all of our canals were built by private enterprise, but the Government has obtained control of a large majority of them in order to remove charges on commerce; and those of which the Government has not obtained control are under the management of railroads. In some instances the roads have operated canals at a loss in order to break down competition and to maintain freight charges on their lines. But we are told that the Panama Canal is differently situated from the others, because it involves the commerce of the world. This might be true if there were across the Isthmus a natural thoroughfare. As far as international law can be regarded as settled, while commercial ships may of right pass through artificial canals, yet the nation that constructs them may annex such conditions to their use as it chooses. (Moore's Int. Law Dig., vol. 3, p. 268.)

It is contended by some that the act exempting tolls was not carefully considered, and hence is entitled to but little weight. In view of the facts such a contention is as unjust as it is untrue. However, it is quite in harmony with the many misrepresentations which have been made concerning the treaty, and is only a part of a carefully prepared scheme in some quarters to prejudice the people of the United States against the action of Congress and bring her representatives into disrepute.

The bill was considered with great care. After it had been debated in Committee of the Whole and a majority and minority report were made in the House, six days were consumed in debate, and on May 21, more than two months after the minority report was filed, by a majority of 19 votes, the bill passed the House.

The bill was reported to the Senate and referred to the proper committee May 24. After thorough investigation by the committee it was favorably reported June 12, and after exhaustive debate, on August 9, nearly two months after the report was made, it was adopted—44 for and 11 against—and this, too, in the very teeth of Great Britain's protest which had in the meantime been made to the State Department.

June, 1912, after the vote by the House and before the vote in the Senate, the Republican convention indorsed and nominated Taft for President. In view of the fact that he had declared in favor of toll exemption, his nomination was an approval of that doctrine.

July 2, 1912, the Democratic convention declared in its national platform:

> We favor the exemption from tolls of American ships engaged in coastwise trade passing through the Panama Canal. We also favor legislation forbidding the use of the Panama Canal by ships owned or controlled by railroad carriers engaged in transportation competitive with the canal.

August 7, 1912, the Progressive Party in its platform declared:

> The Panama Canal, built and paid for by the American people, must be used primarily for their benefit. We demand that the canal shall be so operated as to break transportation monopoly now held and misused by the transcontinental railroads by maintaining sea competition with them; that ships directly or indirectly owned or controlled by American railroad corporations shall not be permitted to use the canal; and that American ships engaged in coastwise trade shall pay no tolls.

If there was a single word of objection to these declarations in any one of the conventions, I have never heard of it. Indeed, it seemed that the exemption of American vessels from tolls had become the fixed policy of the American people.

In the campaign that ensued the speakers of each party lauded the statute, no one more strenuously than Mr. Wilson, who had accepted his nomination not only with alacrity but with the utmost Christian resignation.

In view of the fact that the law had passed, notwithstanding the protest of Great Britain, our people have made large investments in the building of ships for coastwise trade, and the repeal of the law would inflict great damage upon them and would be an act of bad faith on our part. However, if Great Britain is satisfied, their wrongs amount to nothing.

To the profound astonishment of the American people—and, for that matter, I doubt not of the people of the civilized world—on the 5th of March, 1914, President Wilson delivered a message to Congress earnestly insisting that the toll exemption should be repealed.

That surprise grew out of the fact that the Chief Magistrate of the United States asked that his Government should surrender its sovereign rights. The surprise, however, was increased in this country by reason of the President's repudiation of the platform on which he was nominated, which he heartily indorsed during the campaign, and on which he was elected. Not only did the Democratic platform indorse the exemption from tolls of coastwise vessels, but the same platform concluded with this lofty, earnest, and, as was then supposed, honest declaration:

> Our platform is one of principles which we believe to be essential to our national welfare. Our pledges are made to be kept when in office as well as relied upon during the campaign, and we invite the cooperation of all citizens, regardless of party, who believe in maintaining unimpaired the institutions and traditions of our country.

The President and many Senators seem not to have seriously regarded this declaration or the speech of the Secretary of State before the Pennsylvania House of Representatives, May 13, 1913, in which he said:

> If a man after his election finds something which he can not honestly support, what ought he to do? Violate his conscience? No. Then what? He should resign and let the people select a man to do what they would have him do. * * *
>
> A platform is binding upon every honest man who runs upon that platform. * * *
>
> The representative who secures office upon a platform and then holds the office and betrays the people who elect him is a criminal worse than the man who embezzles money intrusted to him.

And, notwithstanding these high-sounding declarations, Mr. Bryan now favors the repeal, having evidently concluded that the rule laid down by him does not apply to a Secretary of State.

I do not refer to these inconsistencies through any burning desire or with the hope to prevent any Democrat from committing them, but simply to show how untenable and unreliable is the judgment of any man who thus shifts from one position to another and who has no respect for his party platform.

An attempt, however, is being made to justify the President and those who support him by referring to another plank in the platform denouncing subsidies. The two planks do not necessarily conflict, because free tolls do not constitute a subsidy in the sense the word is ordinarily used; but if they do, it follows inevitably that the Democratic Party did not deal honestly with the people in making two conflicting declarations in order to obtain votes from those having divergent opinions.

However this may be, Mr. Wilson heartily and without qualification indorsed free tolls and is in morals now estopped from taking a contrary position, except, at least, in case of the direst extremity.

An effort is made to escape the binding force of the platform on the ground that the general declaration against subsidies precedes the special indorsement of free tolls. But the repealants forget that the universal rule of construction is that a special provision always stands superior and paramount to a general declaration. Such was the decision In re City Trust Co. (121 Fed., 708), and two of the judges joining in that opinion are now judges of the Supreme Court.

There is another universal rule of construction, that in order to arrive at the true intent the whole instrument shall be considered. There is no trouble in applying that rule in this instance. The Democratic Party did not regard exemption from tolls to American vessels in domestic waters as a subsidy, and for years, by its votes in Congress, had recognized such exemptions. Neither did they regard such exemption as any more a subsidy than the provision contained in the Underwood tariff law giving a 5 per cent advantage or rebate to American ships engaged in the foreign trade over the ships of other nations carrying imports into the United States. And although more than 20 foreign powers have protested against this law, neither the President nor his adherents have proposed its repeal. Probably if we are so unpopular abroad, that law has contributed to it more than any other cause.

So it is there is really no conflict in the Democratic platform.

It is not only fair but eminently proper in discussing this remarkable message to call attention to the fact that the President not only accepted a nomination on a platform indorsing that exemption, but during the campaign earnestly commended its justice and propriety. And right here I pause to inquire if he had spoken before the people in that campaign as he speaks now does any sane man believe he would have been elected? But now that Mr. Wilson has been elected he does not hesitate to condemn the bridge that carried him over. What are the reasons for this remarkable change? He does not ask the repeal as a matter of *policy alone*, but to use his own words as a matter of *justice and wisdom*. Hence, it will not do to say that he is asking it merely to avoid complications. Contrast this statement with his speech during the campaign at Washington Park, N. J., August 15, 1912, after the bill had passed. Speaking of the opening of the canal he said:

> What interest have you in opening it *to the ships of the world?* We don't own the ships of the world. * * * The chief road by which your crops travel to the Orient is through the Suez Canal. They don't go around by the Pacific. * * * The western farmer therefore has to ship his crops across the continent in order to reach the ships that are to take that road. And when his crops reach the port do they find American ships waiting for them? Not at all. In most years not a single ship carrying the American flag goes through that canal [Suez] carrying freight. * * *
>
> One of the great objects in cutting that great ditch across the Isthmus of Panama is to allow farmers who are near the Atlantic to ship to the Pacific by way of the Atlantic ports, to allow all the farmers on what I may, standing here, call this part of the continent to find an outlet at ports of the Gulf or the ports of the Atlantic seaboard and then have coastwise steamers carry their products down around through the canal and up the Pacific coast or down the coast of South America.
>
> Now, at present there are no ships to do that, and one of the bills pending—passed, I believe, yesterday by the Senate as it had passed the House—provides for free tolls for American ships through that canal and prohibits any ship from passing through which is owned by any American railroad company. You see the object of that, don't you? [Applause.] We don't want the railroads to compete with themselves, because we understand that kind of competition. We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent. * * *
>
> Everything that is done in the interest of cheap transportation is done directly for the farmer as well as for other men. So that you ought not to grudge the millions poured out for the deepening and opening of old and new waterways.
>
> *Our platform is not molasses to catch flies. It means business. It means what it says.* It is the utterance of earnest and honest men, who intend to do business along those lines and who are not waiting to see whether they can catch votes with those promises before they determine whether they are going to act upon them or not.
>
> They know the American people are now taking notice in a way in which they never took notice before, and gentlemen who talk one way and vote another are going to be retired to very quiet and private retreats.

I wonder if this last statement is prophetic of the disposition the people will make of Mr. Wilson should he again offer for the Presidency.

But let us return to this wonderful message:

> In my own judgment, very fully considered and maturely formed, the exemption *constitutes a mistaken economic policy from every point of view, and is, moreover, in plain contravention of the treaty with Great Britain* concerning the canal concluded on November 18, 1901.

It would have been more illuminating had the President explained why he accepted a nomination on, and heartily indorsed by act and speech, a disreputable platform "*in plain contravention of a treaty*" by which act, if he is correct, the Nation was dishonored.

Was he in earnest when he accepted the nomination? Was he in earnest when he spoke in New Jersey? The exemption was just and wise, yea, even politic, then. If he did not act and speak frankly then, he should confess it now and admit that his platform did not "mean business," but was "molasses to catch flies." If on the other hand he has changed his mind, he should have said so and not appear, as he now does, before the American people speaking in two different ways with two different voices. He does not suggest an arbitration, which Great Britain proposed—and which was substantially agreed to by Secretary Knox—and which would now be acceptable to her, but asks that the law shall be repealed, although Innes, representing Great Britain, has admitted that the exemption of bona fide coastwise vessels might not be objectionable.

Again, the President says:

> Whatever may be our own difference of opinion concerning this much-debated measure, *its meaning is not debated outside the United States.*

Even if this statement were true, it might have occurred to his mind, at least, that the interest of people in the canal outside the United States is opposed to ours, and hence such an opinion, even if it existed, should cause no surprise. But the statement is untrue.

On April 10, 1913, Hon. George C. Butte, M. A., one of the most profound German lawyers of Heidelburg, issued and had printed an article in a celebrated German periodical at Munich—

Jahrbuch des Völkerrechts—thoroughly vindicating the position of the United States. This article was printed as a Senate document May 5, 1913, on motion of the distinguished Senator from New York [Mr. O'GORMAN], and must have come to the notice of the President. His may be said to be an unprejudiced view, the opinion of a writer in a foreign land. On account of the clearness of statement and wonderful force of this article, I will make extensive quotations.

In the beginning of the article he says:

He deceives himself grievously who believes the United States made the stupendous sacrifice of human energy and public money necessary to build the Panama Canal, the greatest liberty man has ever taken with nature, with any other purpose in view than the national advantage of the United States—commercial and, above all, political advantage. * * * Equally clear also is the fact that the United States never thought of selfishly appropriating the canal as a national monopoly. It was to be a great open highway to bring remote nations and peoples into closer relation with one another; it should be dedicated to the commerce of the world as an exalted agency of peace, in the control of a liberty-loving people, for the promotion of human happiness and the spread of the blessings of civilization. Nor is there anything necessarily incompatible in these positions. No one underestimates the benefits to mankind of the Suez Canal because the builders thereof draw a 30 per cent dividend annually. * * *

Every presumption of good faith in the observance of a treaty is to be allowed in favor of a nation as against a charge of treaty violation when a difference of opinion has arisen as to the meaning of the treaty involved. The burden of proof rests upon the nation charging the violation. * * *

Such pretentions and demands, when coupled with a direct or covert allegation of treaty violation in the event they are not complied with, acquire a wholly unjust importance by reason of the unfortunate but undeniably actual circumstance that the mere charge of treaty violation always places the nation against which it is made under suspicion in the minds of many and imposes upon it the unfair burden of proving a negative, namely, that it has done no wrong.

In the present controversy between Great Britain and the United States it is an important fact that the construction placed by Great Britain upon the Hay-Pauncefote treaty, if recognized, will result in an unquestionable and an unmixed national profit to Great Britain.

* * * * * * *

The questions involved are provisions of internal legislation affecting directly only the domestic affairs and the subjects of the United States, and as such may not be annulled or even called in question by any foreign court, arbitral or otherwise. This proposition is so elemental, striking as it does to the very root of the doctrine of national sovereignty, that no nation having reasonable ground for believing that this proposition arises ought to be criticized for entertaining an honest doubt as to the propriety of submitting itself to an arbitration. * * * The conclusion is irresistible that the parties never intended that vessels of commerce and of war of all nations observing these rules should be entitled to use the canal "on terms of entire equality" with the United States, but on terms of equality among themselves. * * *

The persistent efforts of the British Government, vigorously supported by transcontinental railway lines, to accomplish the repeal of the act of August 24, 1912, have up to this time met only with rebuffs in and out of Congress. It is believed that the American Nation will remain steadfast in the face of unwarranted demands, conscious of honorable motives as respects foreign powers, and firm in upholding her sovereign right to legislate as to her own property and her own subjects as she sees fit. * * *

It seems that in Germany the influences against free tolls are clearly understood.

As showing the present opinion in Germany, I quote the following special dispatch from Berlin to the Washington Post of March 7, 1914:

It has been years, if, indeed, such a case every occurred before, since the United States so openly backed down before England—years since it so openly felt and said it no longer was absolute in its own sphere, but dependent upon other powers.

In these words Count von Reventlow, the noted naval critic and writer on international topics, summarized to-night his view of Wilson's latest move on the canal tolls question.

Even in Great Britain there are those who agree that the toll exemption is right.

The Law Magazine and Review of London is the leading publication of its kind in England. In its November number, 1912, appear articles written by eminent British authorities, Edward S. Cox-Sinclair and C. A. Hereshoff Bartlett, LL. D., fully sustaining the position of our Government. These articles are exceedingly able and exhaustive, and I regret that time will not justify quotations therefrom; however, they were inserted in the CONGRESSIONAL RECORD a year ago, on motion of the distinguished Senator from New York [Mr. O'GORMAN], and surely did not escape the eye of the President.

Following the reply of Secretary Knox on January 17, 1913, to Sir Edward Grey, the Manchester (England) Guardian said:

By the American navigation laws, as by all navigation laws, coastwise traffic is reserved to American registered ships. As none but American ships can make a voyage, say, between San Francisco and New York, there can be no question of discrimination against other ships. This coastwise traffic was an American monopoly before the Hay-Pauncefote treaty, and a monopoly it remains. * * * As America retains the monopoly, we fail to see how any question of discrimination can arise against a second party who does not exist, so far as coastwise traffic is concerned. The real grievance against the bill in its amended form is not against its morality but something much narrower. It may with fairness be said that the American definition of coastwise shipping is so wide that it includes practically all American shipping. * * * Our foreign office, when it concluded the Hay-Pauncefote treaty, should have foreseen this practical difficulty, and it could then with reason have pressed for the restriction of the American definition of coastwise traffic.

In March, 1913, the Irish Industrial Journal published, I believe, in Dublin, said:

According to the Irish Times the phrase "all nations" includes the United States. Therefore the United States can not discriminate against themselves. According to this interpretation *all* vessels must pass through on the same terms. There must be equality. It would, however, be absurd to hold that a country could not discriminate in the case of its own vessels. How, then, could equality be established among nations which do not discriminate against themselves? To hold this view would be equivalent to denying the United States jurisdiction in their own country.

It must be admitted, therefore, that the United States Congress has the power to make the laws governing its own affairs. It has power certainly to make regulations concerning its domestic traffic. Let us take the case of traffic passing between New York and San Francisco. This clearly is domestic traffic. * * * It is interstate commerce, and is not foreign. No country could subject her coasting commerce to foreign regulations.

* * * * * * *

"Would Irishmen permit the United States to interfere with the Dublin port and docks board in fixing dues on vessels trading from Liverpool to Dublin?" * * * "Yet this is what is proposed by an Irish journal, in the face of the fact that the Panama Canal is built on American territory by American capital." * * * "The merits of the case are equal and the comparison is fair." * * * "The treaty should be interpreted: 'We, the United States, guarantee equality to you' (all nations). This appears to us to be the common-sense interpretation. A man can not contract with himself. When the United States throws open her canal to all nations on equal terms she is in the position of a host throwing open his house to his guests. When he says to his friends, 'Come you all to my house,' he surely does not include himself." * * * "It is evident that a man can not contract himself in his own house, neither can a man (or a nation) enter into an engagement with himself. Consequently the phrase 'all nations' can not include the United States, nor consequently its shipping, which can be exempted." * * * "The British people were simply guaranteed equality with all other nations bar the United States."

* * * * * * *

"Now, a treaty can only bind in the form of a contract. The Hay-Pauncefote treaty is lacking in the essentials of contractual obligation. The subject matter was uncertain, the agreement was conditional, there was no consideration, and it was not competent for ambassadors to surrender sovereign rights. As regards the first point, it is contended that the negotiations (in the Clayton-Bulwer treaty) had the Nicaraguan scheme in mind, and that it was to be a joint enterprise undertaken by the United States and Great Britain.

If this was a true version of what was in the minds of the parties, then the Hay-Pauncefote treaty involves no contract, as the subject matter has vanished. In any event, the agreement depended on a canal being built and was therefore conditional. Then there is the question of consideration, without which no contract can lie. We may well ask what did the United States receive by way of remuneration or benefit of any kind for making the treaty. The consideration for the use of the canal is the payment of dues. The consideration for being permitted to construct it might be stated to be in the fact that Britain agreed to withdraw her opposition to the construction. But if she had no legal right to oppose the canal project, she could not waive it as a legal consideration. Finally, there is the question of territorial sovereignty and the rights of the United States over its own shipping which could not be affected by any treaty obligations. * * *

In passing her coasting trade free she does no injury to us, for the carrying trade between the States has been confined to vessels under her flag ever since the first days of the Republic. The whole agitation is well known to be inspired by the American and Canadian railway companies.

It seems that in Ireland the agencies at work for repeal are fully understood.

But what is most surprising is that the President seems not to have read the letter of Mr. Innes of July 8, 1912, to Secretary Knox, in which he says:

If the trade can be so regulated as to make it certain that only bona fide coastwise traffic which is reserved for United States vessels would be benefited by this exemption, it may be that no objections could be taken.

And yet in the face of these expressions from eminent sources the President says the "meaning of the treaty *is not debated outside of the United States. Everywhere else the language of the treaty is given but one interpretation, and that interpretation precludes the exemption I am asking you to repeal.*"

After the message was delivered, in April last, the London Daily Telegraph published the following editorial:

We on our side should endeavor to realize the peculiar difficulties of the situation as to Panama. What the Americans have to deal with there is not, as many English critics have assumed, a mere question of canal tolls. It is not even a question solely of American versus foreign shipping.

Interwoven with it are various domestic questions of greater or less difficulty. Perhaps the most difficult of them all arises out of the competition between American coasting steamers and the transcontinental railways. Part of the object of exempting coasting vessels from canal tolls was to enable them to reduce their freight rates and to force a similar reduction on the transcontinental roads.

This, it will be observed, is a purely domestic affair. Foreigners are not interested in it except, perhaps, indirectly as holders of transcontinental railroad stocks. The coasting lines are practically all owned in the States, and that may explain the special favor with which they are regarded in Congress.

* * * * * * *

There are really two issues involved—a special one affecting the administration of the Panama Canal and a much broader one involving the moral and legal right of the United States under existing treaties to discriminate in favor of its own coastwise shipping.

While foreign critics naturally fix their attention chiefly on the first issue, it is equally natural that in the minds of American citizens the second should be most prominent.

Coastwise shipping is already a recognized principle of American policy. It has been applied in a variety of ways, and this, it may be contended, is the first occasion on which its application has been challenged.

An American champion of discrimination may plausibly ask why it should be excluded from the Panama Canal when it is permissible on every other foot of the United States coast line.

The Canal Zone is, in law and in fact, American territory and subject to all the territorial rights of the United States. That being so, why should not the general law and policy of the United States in such matters equally apply to it?

* * * * * * *

When the British public realize the larger question which lies behind it, namely, the general claim of the United States to discriminate in favor of its coastwise shipping, they may see that a settlement of the smaller question will not carry them far while the larger one remains open.

* * * * * * *

Already European shipowners find themselves in this dilemma. Their system of rebate affords an undeniable precedent for the refunding of canal tolls to American coasting ships. While they continue in force no European Government, British, French, or German, which recognizes them, can object to their American counterpart.

Again, immediately following the message, a London dispatch in giving the position assumed by the British newspapers (March 6), says:

The Daily News styles the message as one of the most perfectly phrased documents of modern times. The editorial admits that the United States might have an abstract right not to impose tolls on the American coastwise shipping, just as Great Britain has the right to abstain from participation in the Panama-Pacific Exposition, but that such actions would be mistakes.

So well satisfied are the nations of the earth with the justice and right of the exemption of United States coastwise vessels from payment of toll, notwithstanding their interest, that not one of them has made a protest to the United States except Great Britain.

But we are told in the message that—

We are too big, too powerful, too self-respecting a Nation to interpret with too strained or refined a reading the words of our own promise just because we have power enough to give us leave to read them as we please.

We have not given them a strained or refined reading. No such action is necessary. In making our construction we have considered the plain and simple words of the treaty. Rather, I should say, "We are too big, too powerful, too self-respecting a Nation" to surrender our sovereignty to Great Britain.

Continuing, the President says:

We ought to reverse our action without raising the question whether *we were right or wrong.*

In other words, we should not contend for the interest of our country, even if we are right.

Some years ago a distinguished officer of the American Navy proposed the toast, "Our country. May she be always right; but right or wrong, our country." But our President has varied the toast by substantially saying, "Great Britain, right or wrong."

The Members of this body, after mature deliberation, enacted the law. Now those who favored it are asked to stultify themselves. The trouble seems to be with the President that he thinks he is not a part of the country, but that the country and Congress are a part of him. He dictated a tariff bill and a currency bill. The antitrust bills, it is said in the press, did not suit him and were withdrawn in order that he might revise them. However subservient his party may have been to his will in these economic questions, it can not and dare not submit now on a question so seriously affecting our country's honor.

Those who voted for the law are asked to reverse their action, to sacrifice their self-respect, to eat their words in support of his foreign policy. The request is an insult, and the President should be plainly told that Congress is neither his slave nor his Trilby.

It would be interesting to know when the President reached his conclusion. It is a significant fact that in the week preceding April 26, 1913, a cable dispatch from London announced that Ambassador Bryce had informed the British Government that President Wilson favored the British view that the United States could not rightly or justly relieve its coastwise traffic from the payment of tolls. This was unofficially denied from Washington, but never denied in Great Britain. From that time it has been persistently stated from time to time in the public press that "President Wilson favored the repeal of the toll exemption." Some believed this report, but in the main it was discountenanced. In view of the present conditions, it seems that the report from London and the reports in our home press were true, and that as far back as a year ago the President reached his lately announced conclusion. If this be true, why did he for so long withhold that conclusion from Congress? He and he alone can answer.

The failure to speak sooner might be attributed to the fact that the President was not until recently impressed with the necessity of appeasing Great Britain, were it not that, through the newspapers on the evening of the day he delivered his message and on the morning of the following day, he stated to his callers that—

there was nothing in international relations that was critical—

But explained—

that the administration has found it embarrassing to deal with foreign nations, not one of which believed that the United States has been keeping its contract under the Hay-Pauncefote treaty, and all of which are suspicious of our good faith.

From these statements it appears that our coy and blushing President merely desired to be relieved of embarrassment, and that to accomplish this we were asked to surrender our right of sovereignty to Great Britain.

To the accomplished reporter of the Courier-Journal the President denied that any "especial foreign situation is critical," but indicated that "it is uncomfortable and insecure to try to deal with people who think one is an outlaw." The correspondent then asked the President "if any foreign Government had communicated a formal sentiment of that kind," whereupon he replied, "A man can tell whether another one likes him or not without receiving a formal letter on the subject."

So it is, we find that the President is asking us to sacrifice the important and far-reaching right that we have to manage our own canal, built with our own money, and upon our own soil, in order to relieve him of "embarrassment" or "discomfort and insecurity in dealing with people who think he is an outlaw and who do not like him."

In his estimate of the sentiment of foreign nations, the President disagrees with Mr. Bryan, who recently, in speaking of our position internationally, said, "We occupy, to-day, a proud position among the nations."

However, the conduct of foreign nations concerning our present war with Mexico show that even if any apprehension existed at the date of the President's message it was entirely groundless.

The message of the President, as said, is nothing short of an insult to those Members of Congress who voted for the present law. He knew when he delivered it that the toll-exemption law had been carefully considered and debated in both Houses before it was enacted. He knew that the law was the deliberate act of Congress, notwithstanding the pending protest of Great Britain, and yet he charges Congress not with having erred but with having acted in "plain contravention of the treaty." In other words, he charges that Congress deliberately violated a solemn treaty and besmirched the Nation's honor. If this be true, necessarily Congress dishonored itself and reflected discredit on the American people. And, to add insult to injury, having thus condemned us, he asks us to confess the truth of his charge by repealing the law. Surely no self-respecting Congress will tamely submit to this insult, much less confess his guilt. Even if he speaks truly, it will not reflect any more credit upon us to comply with his request than it reflects upon the thief to drop stolen goods and plead guilty. He does not even propose, what would be willingly accepted by Great Britain, that we should arbitrate. He simply says in substance, there is nothing to arbitrate; Congress has been guilty of dishonorable conduct, and should make amends by repealing the obnoxious act.

Our Chief Magistrate should hold the honor of Congress in the highest esteem; but, instead, he places the seal of criminality upon the great law-making body of the United States. And not only so, but upon the three great political parties, which in 1912 indorsed the law; and last, and worse than all, upon the 14,000,000 voters who approved the law. Carried to its legitimate conclusion, he brands himself with dishonor in approving this dastardly conduct of Congress by act and speech during the campaign.

But he says in his message: "I ask this of you in support of the foreign policy of the administration." If this be true, why was it necessary for him to charge by implication bad faith on Congress? Certainly it would at most have been sufficient to have said that, in his judgment, our action was "a mistaken economic policy." Why not have simply asked for the repeal on the ground that it was absolutely necessary to the carrying out of his foreign policy? Even this would have been a very vague and unsatisfactory request, because of his failure to speak candidly and give his reasons for making it, but it would at least have been respectful to Congress.

However, if his only reason is to enable him to carry out his foreign policy, in view of the policy he has pursued with Mexico, that reason would furnish the very best ground for refusing to grant the request. The trouble has been that the administration until recently made a feeble stand, with the dove of peace

in one hand and a jug of grape juice in the other, proclaiming in mellifluous tones, "In hoc signo vinces."

I agree that the President has been actuated by an honest endeavor to procure peace and a constitutional government in Mexico. The trouble, however, is that his ideals are too exalted to be realized. The great majority of her people are not fitted for constitutional government. There is too much of ignorance, too much of insatiable ambition, too much of rapine, too much of internal strife, too much of butchery. You might as well undertake to establish a Sunday school in hell as real constitutional government in Mexico by Mexicans. I had intended, Mr. President, to fully discuss the President's Mexican policy, but owing to present complications will refrain.

Now, what was his foreign policy at the time he read his message? We did not know; for, unlike other Presidents, he failed to tell. It is doubtful whether he himself knew. He declined to take us into his confidence. He gave no explanation for his own change of opinion. He gave no reason for the action he asked us to take. He only states that he desires it done in order to help him carry out a policy which he does not disclose. Whether we would have deemed that policy wise if we had known what it was we can not tell. We were simply asked to blindly trust him.

We were sent here by constituents who rely upon our loyalty and ability to decide for ourselves and to exercise independence, not to be dictated to by the Executive, but to act as we see it in the interests of the people and of the country. We were not sent here to implicitly obey the presidential mandate as to what laws we shall enact or repeal. This is not a one man's Government, but a Government of 100,000,000 of freemen.

Great Britain, when humored, has never been satisfied with less than complete submission to her will. Her whole history has been one of blood and conquest. She has assisted in the advance of civilization, but not for civilization's sake, only for conquest, and in so doing has covered her hands and conscience with innocent blood. She has never been our friend except as she believed it to be for her own advancement.

Her demands are not only without foundation, but are unjust and impudent as well. This is our canal, built with our own money, on our own soil. She will obtain more benefit from it than any other nation—indeed, more than all others combined—because of her immense merchant marine and the establishment of a new route to Australasia and her Asiatic possessions. She owes no obligation and assumes no responsibility connected with the canal. She denied us the right to engage in her coastwise trade, as we have denied her the right to engage in ours. This is our domestic affair as much as the navigation of our canals at the north or the navigation of the Mississippi. We agreed that the canal should be open to her and all other nations observing our rules on terms of entire equality, but we did not agree to waive our superior rights, much less to deny ourselves entire equality, and this we will do if we surrender our right to control our own property exclusively, which right is not only inherent but is specifically asserted in the treaty, and deprive our coastwise vessels of exemption, while all other vessels passing through the canal are subsidized.

The President in his message on the Mexican situation said:

> The people of Mexico are entitled to settle their own domestic affairs in their own way, and we sincerely desire to respect that right.

When I heard that utterance I wondered why a right should be so fully conceded to the people of Mexico which he was unwilling to concede to the people of the United States.

If we concede partially the demands of Great Britain now, we will be compelled to concede more, even to the extent of becoming involved with Panama as to the title to the canal. Besides, if we yield so readily to Great Britain we will be considered an easy mark by other nations and furnish them an incentive, aye, even an invitation, to demand concessions.

When the President saw the rising storm of the Nation's wrath he attempted to still it and at the same time obtain votes for the repeal by saying through the public press that the repeal of the exemption clause could not be regarded as an interpretation of the treaty, because it would be a legislative act, and that by such repeal the United States would merely show a disinclination to raise the question of discrimination, but does not by its act limit any future policy of the Government. Such a position, in my judgment, does not reflect credit upon the President's intelligence.

The majority of the committee now reports, in order to meet the views of the President and with the hope of preventing the defeat of the bill, this amendment:

> The passage of this act, or anything therein contained, shall not be construed as waiving, impairing, or affecting any rights possessed by the United States, under treaty or otherwise.

To say that the passage of the bill shall not be construed as a waiver or to affect any rights possessed by the United States, when it repeals an express assertion of right under the treaty, is self-contradictory.

A highwayman demands your pocketbook. You promptly surrender it, accompanied with a statement that your action is not to be construed as impairing or affecting your rights in any way.

Secretary Grey and Ambassador Bryce each suggested to Secretary Knox that the complaint of Great Britain as to free tolls could be removed by a repeal of the law. The repeal, in other words, is all that she seeks, and when that is accomplished Great Britain is satisfied to that extent. She cares nothing for the declaration in the amendment, because she knows that a declaration that we do not intend to surrender a right when we at the same time by repeal actually surrender that right is the merest moonshine.

But it will be said that hereafter we can pass another law providing for free tolls. If we repeal the present law, we will never enact a similar statute, because we have repealed it at the instance of Great Britain as well as the President of the United States, both of whom claim that it is a violation of the treaty. The passage of this bill is necessarily an interpretation of the treaty, because it is the response of Congress to the request of the President, who himself interpreted the treaty in his message.

Did he not in that message say to Congress that the exemption was "*in plain contravention of the treaty*"? Did he not thereby say that under the treaty we were not entitled to such an exemption? And did he not on this ground urge a repeal?

Now, if Congress complies with his request does it not say necessarily thereby that it agrees with the President that we are not entitled to the exemption and that the law is in plain contravention of the treaty? The United States by such action would not merely show a "disinclination to raise the question of discrimination"; it would, on the contrary, completely surrender its right to make such a discrimination. That surrender would be for all time, because if the United States should hereafter attempt to assert it, the act of Congress could and might well be pleaded in estoppel on the theory that other nations had changed their position and acted upon it.

If the United States is entitled to the exemption and that right has been properly asserted by Congress, why repeal the law? How does it happen that we have this question before us? Would we be considering it if the President had not made his request, based upon the assertion that the law "is in plain contravention of the treaty"?

Neither the purpose nor the effect of the amendment will deceive the American people. If the repealants conscientiously believe the law is wrong, why not boldly stand for its repeal? Why sugar coat the pill? The effect of the medicine will be just the same.

Much encouragement has been given the repealants on account of the statements of ex-Ambassador Choate and Chargé White. These gentlemen were located in London at the time the Hay-Pauncefote treaty was negotiated. Their letters to Senator MCCUMBER forcibly manifest their interest in the question at issue. Mr. Choate says, answering the Senator:

> I answer both these questions *most emphatically* in the affirmative. The phrase quoted "vessels of commerce and war of all nations" *certainly* included our own vessels and was so *understood* by our own State Department and by the foreign office of Great Britain. It was *understood* by the same parties that these words also included our vessels engaged in the coastwise trade.

It was not sufficient to say, "I answer both of your questions in the affirmative," but he deemed it necessary to add "*most emphatically*" in his answer concerning "vessels of commerce and war of all nations," and lest the earnestness of his answer might be questioned, he adds that the phrase "*certainly*" included our own vessels, and so forth. This sounds more like the statement of a deeply interested party than that of an ex-American ambassador. He then proceeds to tell the *understanding* at both the foreign and home offices. It might be ordinarily thought that one man could not be at two places 3,000 miles apart at the same time, but such a thought could not be entertained for a moment concerning this omnipresent individual. How could he know what was the *understanding* in the United States? Only by intuition or correspondence. Now, all the correspondence has been preserved, and if it is not shown by it that the understanding was derived by him from correspondence we must assume that he spoke from intuition or supposition; and even if his letters show that such was *his* opinion it must not be forgotten that the treaty as amended was ratified afterwards and its language must control in any event. Besides, his statements as to the "*understanding*" are not legal evidence. It may be he thought that as he so understood it no one should

be permitted to understand it otherwise. Not content with this statement, he proceeds to make an argument to sustain his *understanding*. If he had stated a fact, why bolster it up with an argument? Unfortunately his argument conflicts with his premises. He says:

When we came to the negotiation of the last treaty *there was no question* that as between the United States and Great Britain the canal should be open to their citizens and subjects on equal terms, and should also be open on like terms to the citizens and subjects of every other State that brought itself within the category prescribed. *On that point there was really nothing to discuss*, and in the whole course of the negotiations *there was never a suggestion on either side* that the words "the vessels of commerce and of war of all nations" meant anything different from the natural and obvious meaning of these words.

Now, if this be true, and it certainly must be, for Mr. Choate says it is, if there "was no question" about it, if "*there was really nothing to be discussed*," if "*there was never a suggestion on either side that the expression meant anything different from the natural and obvious meaning of the words*," pray how could Mr. Choate know what was the understanding except from his own construction by implication? It might with equal truthfulness be said on the other side that for the very reasons he gives such exemption was believed to exist. Continuing, he says:

Such language admitted of the exemption or exception of no particular kind of vessels of commerce and of war of any nation, whether of vessels engaged in foreign trade or coastwise trade—

And he adds in a sarcastic vein—

or of black or white vessels. * * * It is true that in many treaties there have been specific exceptions of vessels in the coastwise trade, and it would have been easy to insert it here. But nobody ever suggested that there should or could be such an exception or exemption inserted *by implication* in this treaty.

Now, Mr. Choate knew, or at any rate being a distinguished lawyer skilled in diplomacy and learned in treaty interpretation, as well as conversant with all the treaties between this country and Great Britain, should have known that our treaty of 1815 with Great Britain provided:

That no higher or other duties or charges shall be imposed in any of the ports of the United States on British *vessels* than those payable in the same ports by the *vessels* of the United States, nor in the ports of His Britannic Majesty's territories in Europe on the *vessels* of the United States than shall be payable in the same ports on British *vessels*.

He knew then that, notwithstanding this treaty did not exclude or exempt any vessel of any character, that for 86 years Great Britain had charged the United States on its vessels from four to six times as much as it charged on its own coastwise vessels, thus construing the treaty not to apply to her coastwise vessels, to which construction the United States never objected. He knew, too, that during the same period the United States had given the same construction to the treaty and had preferred her coastwise vessels as against the vessels of Great Britain. He knew, too, that the Supreme Court of the United States in Olsen *v.* Smith (195 U. S.) had construed the treaty and held that it did not apply to coastwise vessels.

In other words, he knew that both countries had so construed this treaty long before the negotiation of the Hay-Pauncefote treaty, of which construction it must be presumed the representatives of both countries had full knowledge and in making the present treaty must have considered the same. He knew, too, that there is no better settled principle of international law than that the intention of the contracting parties may generally be fairly and safely determined by instituting a comparison of the present treaty with treaties between the same parties whether prior, posterior, or contemporary concerning the same subject. (Phillimore's (English) International Law, 103.) And yet, notwithstanding all this, he makes the statement quoted, which is in direct conflict with the facts and rules of international law, as well as the decision of the Supreme Court of the United States and the long-continued construction of the treaty of 1815 by both countries. The words "vessels of commerce" were no more general that the word "vessels." For these very reasons there was no necessity for any specific exemption in the treaty, even if the United States comes within the expression "all nations."

Mr. Choate argues that five-sixths of the shipping of the United States is coastwise, and it is therefore inconceivable that we should have intended, without saying a word on the subject, to exempt approximately the entire shipping of the United States.

In the first place, he fails to recognize the fact that the small volume of our foreign shipping is due entirely to the advantage Great Britain has taken of our credulity and friendship by violating in spirit her treaties by the payment of large subsidies to her vessels.

But his assumption that approximately the entire coastwise shipping will pass through the canal is, as he knows, the grossest exaggeration. Only a small portion comparatively will go through the canal, as there are only 29 coastwise ships qualified to pass—more than 300 being prohibited from its use because owned by railroads.

He then expresses the hope that his statement will aid Senator McCUMBER in his argument for repeal. I have no doubt this hope was sincere.

Continuing, he says:

I have read, so far as accessible, the arguments made thus far in the House of Representatives on the pending question and have observed very little discussion of the question what the language of the treaty means, but the whole discussion seems to rest upon prejudice and the proposition that we ought not to submit to British dictation.

That the CONGRESSIONAL RECORD was "accessible" to him there can be no doubt, and in view of the numerous able speeches made in that body on the construction of the treaty his statement made March 31 is manifestly untrue.

Mr. White, who was the understudy of Mr. Choate, says:

That the exemption of our coastwise shipping from the payment of tolls was never suggested to nor by *anyone* connected with the negotiation of the treaties in this country or in England, and that the words "all nations" and "*equal terms*" were *understood* to refer to the United States as well as all other nations.

It will be observed that the words "*equal terms*" referred to by Mr. White are not in the treaty. How, then, could there have been an understanding concerning words not embraced in the treaty? Like Mr. Choate, he seems to have been ubiquitous. The statements of Choate and White conflict with those of Secretary Hay in his explanation of the history of the treaty sent to the Senate Committee on Foreign Relations at the time the present treaty was pending. He there says:

The United States *alone, as the sole owner of the Canal as a purely American enterprise, adopts and prescribes the rules by which the use of the canal shall be regulated* and assumes the entire responsibility and burden of enforcing, without the assistance of Great Britain or of any other nation, its absolute neutrality.

It was also believed—

Said Secretary Hay—

that this change would be in harmony with the national wish, that this great international waterway would not only *be constructed and owned, but exclusively controlled and managed by the United States.* * * *

The whole theory of the treaty is that the canal *is to be entirely an American canal.* * * * When constructed *it is to be exclusively the property of the United States, and it is to be managed, controlled, and defended by it.*

Referring to the history of the third clause in the first Hay-Pauncefote treaty, which was omitted from the present treaty—

The high contracting parties will, immediately upon the exchange of the ratifications of this convention, bring it to the notice of the other powers and invite them to accede to it—

And so forth, Mr. Hay says:

Thus the whole idea of contract right in the other powers is eliminated.

And so forth.

The distinguished Senator from Massachusetts, on the 17th day of July, 1912, said, in the Senate:

When I reported that treaty my own impression was that it left the United States in complete control of the tolls upon its own vessels. I did not suppose then that there was any limitation put upon our right to charge such tolls as we pleased upon our own vessels, or that we were included in the phrase "all nations."

Referring to the treaty in another portion of the same speech he said:

I was familiar with the work that was done upon it in London at the time it was concluded there and finally agreed to, and I was very familiar with it here. Although, as the Senator from Georgia correctly said, the question was not raised at that time, I personally have never had any doubt that the matter of fixing the tolls must necessarily be within our jurisdiction.

In view of all these statements, the representations of Mr. Choate and Mr. White as well are manifestly incorrect. Nor must it be forgotten that Mr. Choate is a leading member of the Peace Foundation and more than a year ago volunteered a speech in favor of Great Britain, which was printed and distributed by that organization. But the treaty itself clearly refutes their representations, and it is certainly the best evidence of what the agreement was. It is the solemn written contract between the parties, and in the absence of any charge of fraud or mistake its terms can not be varied by oral testimony. And we shall bear in mind that from the day it was ratified up to July, 1912, when Innes wrote to Secretary Knox—a period of 11 years—no attempt was made to construe the words "all nations" as including the United States.

We have been told by the learned Senator from Massachusetts [Mr. LODGE], for whom I have the greatest admiration and most profound respect, that with the beginning of 1909 the United States occupied a higher and stronger position among the nations of the earth and possessed a greater influence in international affairs than at any period of our history, but that this exalted position and commanding influence have been largely lost and the United States is now regarded by other nations with dis-

trust, and in some cases with dislike. Now, what nations distrust or dislike us? It is true that, so far as Colombia is concerned, she dislikes us—and why? We offered her fair terms in order that we might undertake the construction of a canal in which the civilized world was interested, and she refused to accept. Later, after Panama had seceded, we purchased the privilege from her and paid the consideration. If any blame attaches to this transaction, it attaches to Colombia, who, like the dog in the manger, while she would not and could not accomplish anything herself, refused to allow another nation to accomplish it.

Then, we have a controversy with Great Britain concerning tolls, and abrogated one of our treaties with Russia. I do not believe that Russia distrusts or dislikes us, for she peacefully seeks another treaty; nor do I see how Great Britain can distrust or dislike us, because we are conscientiously contending, as the Senator from Massachusetts believes, for our rights under a treaty.

I deny that we are distrusted or disliked by the nations of the world. On the contrary, I quite agree with Secretary Bryan that the United States occupies a proud position among the nations of the world. We can not afford nor should we be expected or called upon to purchase the good will of any nation by surrendering a well-grounded right. A purchased friendship can not be relied upon.

The Senator agrees that, under the treaty, Congress had the right to exempt our coastwise shipping, but because there is a difference of opinion among the people of the United States concerning that right he thinks the exemption should be repealed. When we consider how this difference of opinion, in a large degree, was brought about and how slight it is at best, comparatively speaking, I am unable to see why it should be made a controlling factor such as to induce any Member of this body to surrender his convictions and vote to deprive the people of the United States from exercising a great and important right.

The Senator says that the settlement of the matter is easy; that no one denies that under the treaty the United States can collect tolls from its coastwise ships and repay them. Conceding this to be true, why should we thus climb over the house in order to go through the garden gate?

But however fair and easy the Senator's solution of the trouble may seem to him, he is mistaken in saying that no one denies that such a course can be rightfuly pursued. Mr. Innes, in his letter of July 8, 1912, said:

> The proposal to exempt all American shipping from the payment of tolls would, in the opinion of His Majesty's Government, involve an infraction of the treaty, nor is there, in their opinion, any difference in principle between charging tolls only to refund them and remitting tolls altogether. The result is the same in either case, and the adoption of the alternative method of refunding the tolls in preference to that of remitting them, while perhaps complying with the letter of the treaty, would still contravene its spirit.

In other words, while Great Britain objects to the United States exercising this right, yet she will not send a single ship through the canal that will not have its tolls refunded or be given a subsidy direct.

If the United States is lacking in influence or standing to-day, it is not on account of the tolls question, but because of its weak, vacillating, and uncertain policy of "watchful waiting" with Mexico. If we abandon our sovereignty over the canal to Great Britain, all other nations will know that we did it with the purpose of purchasing immunity for a continuation of our "watchful waiting" policy under which we have accomplished nothing and under which there can be no peace.

In making the Clayton-Bulwer treaty the United States disregarded the Monroe doctrine, and this is the fruitful source of all of our woe. Great Britain had no rights in Central America that we were bound to respect, because in her attempt to acquire territorial rights she had deliberately violated the Monroe doctrine. The United States, in order to avoid strife, entered into the compact, thereby assuming an unnecessary burden.

That treaty became obsolete by reason of its violation by Great Britain; hence there was no necessity for us to enter with Great Britain into the Hay-Pauncefote treaty, but again, in the interest of peace and to prevent friction, we negotiated it.

Great Britain knew when the Clayton-Bulwer treaty was made that her trumped-up claims were without merit. Equally well, when the Hay-Pauncefote treaty was negotiated, she knew that we were under no obligations to enter into it and were treating with her merely to cultivate friendly feelings.

But these concessions have only emboldened her to make her present demands. Nothing so nerves the arm of a bully as to be impressed with the belief that he is feared by his adversary. Prior to the adoption of the Clayton-Bulwer treaty, from comparatively a short while after the discovery of America, the feasibility of the construction of the canal had been discussed without any substantial result. The first material advance, in my judgment, was made by the United States in negotiating a treaty with New Granada in 1846, by which New Granada guaranteed to the United States that the right of way or transit across the Isthmus of Panama upon any modes of communication that then existed or might thereafter be constructed should be open and free to the Government and citizens of the United States, guaranteeing also equality of tolls and exemption from import duties on merchandise shipped to New Granada for exportation beyond. In consideration of these privileges the United States guaranteed to New Granada the perfect neutrality of the Isthmus and the rights of sovereignty and property which New Granada had and possessed over the said territory.

Great Britain, seeing the purpose of the United States, and believing the most available route for the canal would be across Nicaragua, set to work to trump up some sort of claim in the territory through which it was supposed the canal would have to pass. For this purpose she claimed that there was a settlement of British subjects at the Belize, on the coast of Central America, which was of the most insignificant dimension and had no substance or form of territorial dominion. British woodcutters were there under an ancient Spanish license of timber cutting, and nothing more. She also undertook to establish a protectorate along the Mosquito Coast over a small tribe of Indian savages, which was so inconsequential as not even to have a name.

Under this insignificant plea Great Britain was anxious to be made a party to a treaty looking to the construction of the canal. At the time the Clayton-Bulwer treaty was negotiated neither the United States nor Great Britain had the slightest idea of constructing the canal. Their purpose and agreement was to afford protection to any person or persons who should undertake its construction. Neither of them agreed to expend a single dollar in its erection or for its maintenance.

As the Clayton-Bulwer treaty only had this object in view, it was agreed in article 1 that neither—

> the United States nor Great Britain will ever obtain or maintain for itself any exclusive control over the canal; that neither will erect or maintain any fortifications commanding the same or in its vicinity, or occupy or fortify, *or colonize*, or assume or exercise any domain over Nicaragua, Costa Rica, *the Mosquito Coast, or any part of Central America;* nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any State or people for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or *colonizing* Nicaragua, Costa Rica, *the Mosquito Coast, or any part of Central America;* or of assuming or exercising dominion over the same—

And so forth. This was the basis of the treaty, and the canal to be constructed is specifically described in the preamble as—

> *between the Atlantic and Pacific Oceans by the way of the River San Juan de Nicaragua and either or both of the lakes of Nicaragua or Managua to any port or place on the Pacific Ocean.*

Article 2 provided, in case of war between the parties, the vessels of either traversing the canal were to be exempted from blockade, detention, or capture by either, and this protection was to extend from the two ends of the canal to such distance as thereafter should be found expedient.

Article 3 provided, that in the event the construction should be undertaken upon fair and equitable terms by parties having the authority of the local Governments through whose territory the same should pass, that such persons and their property used or to be used shall be protected from commencement to completion by both parties from unjust detention, confiscation, seizure, or any violence.

Article 4 provided, that the parties should use their influence with any State, States, or Governments possessing or claiming to possess jurisdiction or right over the territory which the canal should traverse to induce them to facilitate its construction in order to procure a free port at each end of the canal.

Article 5 binds the parties, when the canal is completed, to protect it from interruption, seizure, or unjust confiscation and to guarantee the neutrality thereof so that it should be forever open and free and *the capital invested therein secure.* Both Governments, or either of them, on six months' notice by one to the other, reserved the right to withdraw their or its protection or guarantee if both Governments, or either, should deem the persons managing the canal should adopt such traffic regulations as were contrary to the spirit or intention of the treaty by making unfair discrimination in favor of one of the contracting parties over the other, or should impose oppressive exactions or unreasonable tolls upon passengers, vessels, and so forth.

The sixth article provided, that the parties shall invite other nations to enter into stipulations with them similar to those entered into by them in order that such other States may share in the advantages of having contributed to the work; and, further, that each should enter into treaty stipulations with

such of the Central American States as they might deem advisable for the purpose of more effectually carrying out the design of the treaty, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans on equal terms to all and protecting the same.

The seventh article merely provided that a preference may be extended to such persons or company as may first offer to commence the same.

Article 8 agrees to extend their protection *by treaty stipulations* (the stipulations not then being made) to any other practicable communication by canal or railway across the Isthmus connecting North and South America, it being understood that the parties constructing or owning same should impose no other charges or conditions of traffic than the United States and Great Britain should approve, and that said canal or railway should be open to the citizens and subjects of the two Governments on equal terms and to other nations who are willing to grant thereto similar protection.

These conditions were eminently wise and proper, because each Government was equally bound in all respects, and neither agreed to expend any sum in building the canal. Of course, neither party could erect fortifications on the canal, because the canal was to be built on foreign territory.

Concerning the reprehensible conduct of Great Britain connected with this treaty, President Pierce said, May 15, 1856:

> It was with surprise and regret that the United States learned * * * that a military expedition under the authority of the British Government had landed at San Juan del Norte, in the State of Nicaragua, and taken forcible possession of that port, the necessary terminus of any canal or railway across the Isthmus within the territory of Nicaragua.
>
> It did not diminish to us the unwelcomeness of this act on the part of Great Britain to find that she assumed to justify it on the ground of an alleged protectorship of a small and obscure band of uncivilized Indians, whose proper name had even become lost to history, who did not constitute a State capable of territorial sovereignty, either in fact or in right, and all political interest in whom and in the territory they occupied Great Britain had previously renounced by successive treaties with Spain when Spain was sovereign to the country and subsequently with independent Spanish America.

For 50 long years after this treaty was made, Great Britain did not take a single step to promote the construction of a canal. Her whole object in making the treaty was to hamper the United States, because she well knew that when completed the canal would not only largely advance the commerce of the United States, but in case of war overwhelmingly increase its power.

In the meanwhile she deliberately violated her solemn obligation in the treaty not to colonize or assume or exercise any domain over "*the Mosquito Coast or any part of Central America.*"

The Senate Committee on Foreign Relations, on January 10, 1891, called specific attention to violations of the treaty in a report unanimously agreed upon and signed by John Sherman, George F. Edmunds, William P. Frye, William M. Evarts, J. N. Dolph, John T. Morgan, Joseph E. Brown, H. B. Payne, and J. R. Eustis, certainly a most distinguished array of American statesmen.

In that report attention was directed to the conduct of Great Britain preceding the treaty as to the Belize and Mosquito Coast, which I have already referred to. Speaking of the conduct of Great Britain after the making of the Clayton-Bulwer treaty as to the violation of her agreement not to colonize, the report says:

> The next step taken after the convention of 1850 was in 1853, when a legislative assembly was constituted to manage the affairs of the settlement. This was followed by a convention between Great Britain and Guatemala in 1859 for the establishment of the boundaries between what the treaty chose to call "Her Britannic Majesty's settlement and possessions in the Bay of Honduras" and the territories of Guatemala, etc.
>
> By this treaty that which was before a licensed industrial establishment became instantly a possession of the British Crown. The settlement government continued until 1862, when the settlement was declared a colony of the British Crown and a regular colonial establishment was set on foot; and so from that time to this the form and substance of a regular colonial government as a part of Her Majesty's dominions has continued. It is understood that its geographical dominion has been vastly enlarged from the licensed woodcutting limitations and boundaries that existed in 1850. All this has taken place systematically and persistently, notwithstanding the declaration of Her Majesty's Government that it should not "colonize or assume or exercise any dominion over * * * the Mosquito Coast or any part of Central America." * * *
>
> In view of all these considerations the committee is of opinion that the United States is at present under no obligations, measured either by the terms of the convention, the principles of public law, or good morals, to refrain from promoting, in any way that it may deem best for its just interests, the construction of this canal, without regard to anything contained in the convention of 1850.

Considering the violation of the Clayton-Bulwer treaty which rendered it obsolete and the fact that material changes in the condition of affairs had taken place, it was neither the interest nor the purpose of this Government to be further bound. That we had the right to disregard the treaty is fully sustained by all international law writers and by every principle of right and justice.

The pretense in some quarters that Great Britain in entering into that treaty surrendered certain valuable rights which constituted a consideration on her part is ridiculous. She yielded nothing except a right of way over the territory she had acquired in violating both the treaty and the Monroe doctrine and her supposed ability to delay the enterprise until another treaty could be made. However, this concession, in view of the fact that the canal is constructed along another route, amounts to nothing.

Before the present treaty was ratified, however, and as part of the history leading up to its negotiation, it is proper to remark that President Grant had said:

> I commend an American canal on American soil for the American people.

President Hayes said, December 1, 1879:

> The policy of this country is a canal under American control. The United States can not consent to surrender their control to any European power. It is the right and duty of the United States to assert and maintain such supervision and authority over any interoceanic canal across the Isthmus that connects North and South America as will protect our national interests.
>
> It will be the great ocean thoroughfare between our Atlantic and Pacific shores and *virtually a part of the coast line of the United States.* Our merely commercial interest in it is greater than that of all other countries, while its relation to our power and prosperity as a nation, to our means of defense, our unity, peace, and safety, are matters of paramount concern to the people of the United States.

Later, President Harrison said, speaking of the canal:

> Our national policy now, more than ever, calls for its control by this Government.

In December, 1898, President McKinley said:

> That the construction of such a maritime highway is now more than ever indispensable to that intimate and ready intercommunication between our eastern and western seaboard demanded by the annexation of the Hawaiian Islands and the prospective expansion of our influence and commerce in the Pacific, and that our national policy now more imperatively than ever calls for its control by this Government, are propositions which I doubt not the Congress will duly appreciate and wisely act upon.

As stated, four Presidents—Grant, Hayes, Harrison, and McKinley—plainly stated the object, character, and purposes of the canal, among other things that it would form a part of the coast line of the United States, before the Hay-Pauncefote treaty was entered into. Not only so, but Secretary Blaine in a letter to Minister Lowell November 19, 1881, said:

> The Clayton-Bulwer treaty was made more than 30 years ago under exceptional and extraordinary conditions, *which have long since ceased to exist, conditions which were at best temporary in their nature and which can never be reproduced.*

Mr. Blaine objected to the "perpetuity" of the treaty on the ground (1) that it bound the United States not to use its military force in any precautionary measure, while it left the naval power of Great Britain perfectly free and unrestrained, ready at any moment of need to seize both ends of the canal and render its military occupation on land a matter entirely within the discretion of her "Majesty's Government"; (2) that it embodied "a misconception of the relative positions of Great Britain and the United States with respect to the interests of each Government in questions pertaining to this continent," and impeached "our right and long-established claim to priority"; (3) that it gave the same right through the canal to a warship bent upon an errand of destruction to the United States coasts, as to a vessel of the American Navy sailing for their defense, and that the United States *demanded* for its own defense the right to use only the same provision as Great Britain so emphatically employed in respect to the Suez route by the possession of strategic and fortified posts and otherwise for the defense of the British Empire; (4) that only by the supervision of the United States could the Isthmian Canal "be definitely and at all times secured against the interference and obstruction incident to war"; (5) that "a mere agreement of neutrality on paper between the great powers of Europe might prove ineffectual to preserve the canal in time of hostilities," and that if, in the event of a general European war, one of their naval powers should seize it, the United States might be obliged to enter upon a "defensive and protective war" in order to support her own commerce; (6) that while the European powers had often engaged with one another in war "in only a single instance in the past hundred years" had the United States "exchanged a hostile shot" with any of them, and that, as it is improbable that "for a hundred years to come" such an incident would be repeated, the "one conclusive mode" of preserving the neutrality of the canal was to place it under control of the United States as the Government "least likely to be engaged in war, and able in any and every event to enforce the guardianship which she shall assume"; (7) that since the treaty was made the number of French and German vessels frequenting the Cen-

tral American coasts had greatly and relatively increased; (8) that the expected aid in the construction of the canal from British capital, which the treaty was designed to secure, had not been realized, and that owing to the great development of the United States foreign capital could not in future enter as an essential factor into the determination of the problem. In conclusion Mr. Blaine said:

The following is a summary of the changes necessary to meet the views of this Government:

"1. Every part of the treaty which forbids the United States fortifying the canal and holding the political control of it in conjunction with the country in which it is located to be canceled.

"2. Every part of the treaty in which the parties agree to make no acquisition of territory in Central America to remain in full force. As an original proposition this Government would not admit that Great Britain and the United States should be put on the same basis, even negatively, with respect to territorial acquisition on the American continent, and would be unwilling to establish such a precedent without full explanation. But the treaty contains that provision with respect to Central America, and if the United States should seek its annulment it might give rise to erroneous and mischievous apprehensions among a people with whom this Government desires to be on the most friendly terms. * * * The acquisition of military and naval stations necessarily for the protection of the canal and voluntarily ceded to the United States by the Central American States not to be regarded as a violation of the provisions contained in the foregoing. * * *

"4. The clause in which the two governments agreed to make treaty stipulations for a joint protectorate of whatever railway or canal might be constructed at Tehuantepec or Panama has never been perfected. No treaty stipulations for the proposed end have been suggested by either party, although citizens of the United States long since constructed a railway at Panama and are now engaged in the same work at Tehuantepec. It is a fair presumption, in the judgment of the President, that this provision should be regarded as obsolete by the nonaction and common consent of the two governments.

"5. * * * In assuming as a necessity the political control of whatever canal or canals may be constructed across the Isthmus, the United States will act in entire harmony with the governments within whose territory the canals shall be located."

In the light of the foregoing declarations of Mr. Blaine and those of four Presidents of the United States, the present treaty was negotiated. Great Britain therefore was not and could not have been misled either as to the intention or claim of the United States.

By the Hay-Pauncefote treaty Great Britain conceded substantially everything embraced in the amendments made by the Senate to the first Hay-Pauncefote treaty and the changes made in the present treaty before its adoption, and Secretary Hay, who negotiated the treaty in a memorandum, which he sent to the Senate Committee on Foreign Relations, said:

The whole theory of the treaty is that the canal is to be *an entirely* American canal. * * * When constructed it is to be *exclusively the property of the United States,* and *is to be managed, controlled, and defended by it.*

And yet, despite all the foregoing facts and circumstances, it is contended that the United States was included in the expression "all nations observing these rules," and can not discriminate in favor of its own commerce. In other words, it is contended that the Hay-Pauncefote treaty gave England more than the Clayton-Bulwer treaty and relieved her at the same time of every liability under the Clayton-Bulwer treaty. The language of the treaty, however, is so plain that its meaning can be easily seen within its four corners.

Even the facts and circumstances which preceded the treaty, plainly as they point to its solution, need not be resorted to. The meaning is plain and simple.

Under the Clayton-Bulwer treaty the rules to be observed were jointly prescribed by the two powers, but under the present treaty the rules were made by the United States alone. When the Hay-Pauncefote treaty was made it was declared—

First. That the treaty should *supersede the Clayton-Bulwer treaty.*

Second. That the canal should be constructed under the auspices of the United States, either directly at its own cost or otherwise as stated.

Third. That subject to its provisions—not the provisions of the Clayton-Bulwer treaty—*the United States should have and enjoy all the rights incident to the construction, as well as the exclusive right of providing for the regulation and management of the canal.*

Before going further it is proper to add that Great Britain was relieved of every responsibility she assumed in the Clayton-Bulwer treaty. She had no responsibility in enforcing neutrality or in protecting the canal in any way. She simply stood forth with perfect freedom from any responsibility, and was not to furnish a single dollar to construct this mighty enterprise. She was even relieved from taking part in the making of rules. Besides, as the canal was not built on the Nicaraguan route, her concessions in the old treaty became valueless, and the only consideration the United States received was her consent that the old treaty should be superseded, which was not necessary, because by reason of her violation of the old treaty it had become a dead letter; and notwithstanding Great Britain was, without any consideration, relieved of every burden and every responsibility or liability, for which she really gave nothing in return, she now claims equal benefits with the United States, who assumed all expense and every burden.

The canal being the property of the United States, our Government alone adopted the rules and specifically set them out in the treaty. The United States said, in effect, "I built the canal and paid for it, but, notwithstanding, I will give all nations the right to use it on equal terms who observe my rules."

"1. The canal shall be free and open to the vessels of commerce and of war *of all nations observing these rules,* on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable."

The canal was already free and open to the vessels of the United States. It was not necessary, therefore, to declare that it should be free and open to them, and it is certainly ridiculous to suppose for an instant that the United States, which was sovereign, should make rules for herself. Neither can it be supposed that she should observe her own rules. Her only purpose was to make rules which, if observed, would allow all nations entire equality in the use of her own canal. Surely it can not be contended that the United States made rules which would compel her to make just and equitable charges of toll on her own commerce, for this she would certainly do. And yet the contention of the repealants lead to the ridiculous conclusion that the United States was so apprehensive lest it might charge too much on its own commerce it concluded to adopt rules to prevent such action.

Suppose I should establish a public park in Washington and adopt rules for its conduct and management, declaring that it shall be open on terms of entire equality to all who observe my rules, and that there shall be no discrimination against any in respect to the conditions or charges for its use. What sane man would contend that I embraced myself and could not enter or use my own park without paying the same charge as all others? Suppose I should say in my rules for the government of all the people that they should not enter the park on Sunday, would any man with a thimble full of brains contend that I could not enter my own park on that day?

As well said by ex-Secretary Olney and substantially reiterated by Secretary Knox:

The treaty is a contract by which the United States as owner and proprietor fixes the terms on which it grants the use of the canal to its customers, and hence it can not be contended with any reason that in fixing the use of its canal to its customers the United States regarded itself as one of its customers.

The position of Great Britain is amusing if it were not made with so much seriousness. During the Civil War a Union cavalryman, coming upon an infantryman sitting beneath the shade of a tree, asked, "Have you got airy dollar?" and being answered affirmatively, as he dismounted remarked, "I'll get right down and play you a game of 'seven-up' for who shall have it." His conception of equity is similar to that entertained by Great Britain. Talk about the United States violating the treaty! It is Great Britain who proposes to violate the treaty. She is notorious for violating treaties with the United States. She violated the treaty of Ghent, the treaty (1819) concerning the fisheries off the coast of Newfoundland and Labrador; she violated the Clayton-Bulwer treaty of 1850 and the treaty of Washington (1871).

In the course of this debate we have been cited to the wonderful liberality of England concerning our commerce in the Welland Canal and reminded how she released her hold on the United States, notwithstanding her treaty advantages. This grows out of the protest of Secretary Grey of November 14, 1912, in which he refers to the generosity of Great Britain in yielding to the United States.

In the treaty of Washington—article 27—proclaimed July 4, 1871, Great Britain agreed to urge upon Canada to secure the citizens of the United States the use of the Welland Canal on terms of equality with the inhabitants of Canada. But notwithstanding the treaty, prior to 1893 our wheat and grain paid a freight of 20 cents per ton through this canal, while the Canadian Government allowed a rebate of 18 cents per ton on wheat carried as far as Montreal, which gave the Canadian shipper a rate of only 2 cents a ton.

England having ignored our protest, on August 23, 1888, President Cleveland sent a vigorous message to Congress on the subject, but Great Britain continued her policy.

July 26, 1892, President Harrison approved the act to enforce reciprocal relations between the United States and Canada. On August 18 he issued a proclamation placing a toll of 20 cents per ton on freight passing through the St. Marys Falls Canal going to any Canadian port. On February 21, 1893, he withdrew

these tolls on assurance by Great Britain that our freight in the Welland Canal would be handled at Canadian rates. So it appears that Great Britain, instead of being generous, was forced to yield to our demands.

But let us pursue the language of the Hay-Pauncefote treaty a little further. It is stipulated that the canal shall be free and open to "the vessels of *commercé and of war* of all nations observing the rules." Can it be doubted that the canal is free and open to the "vessels of commerce and of war" of the United States aside from rules made by the United States? But what are the vessels of commerce of all nations? Surely, even if our rules apply to us, they do not embrace vessels engaged in our coastwise trade. For a hundred years both Great Britain and the United States have ruled that under the treaty of 1815 neither country can engage in the coastwise traffic of the other, and each can discriminate in favor of its coastwise trade as against the foreign commerce of the other, notwithstanding the treaty uses the word "vessels" without any qualification. Therefore the same construction must apply here to the general term "vessels of commerce," and hence the coastwise vessels of the United States are exempt.

But if we are to allow the construction of our adversaries, that the canal shall be free and open to the vessels of commerce of all nations, it follows that it must be open also to *the vessels of war* of all nations who observe the rules on terms of entire equality. I know it has been said by a Democratic Representative that no man but a fool would contend that the rule had anything to do with vessels of war of the United States. I quite agree with the distinguished commentator. And if such an interpretation is evidence of imbecility, it is equal evidence of imbecility to declare that the rule has any reference to the vessels of commerce of the United States. The two classes of vessels are specified in the same sentence and connected by the copulative conjunction "and." It can not be said that vessels of commerce of the United States are included and vessels of war excluded. I quite agree that neither are included. But if the United States vessels of war are included, then, as Mr. Sumner has said, "the ridiculosity of the proposition becomes palpably apparent." To say that the canal shall be free and open to the vessels of war of all nations upon terms of entire equality would be to deprive the canal of all importance as a defense for our country, and instead make it the active agent of its destruction. Not only so, if the rules we adopt apply to the United States, we will be compelled to pay toll every time one of our vessels of war passes through the canal. This rule applied to all foreign nations is reasonable, but the contention that it applies to the United States is the height of absurdity.

Again, if one of the six rules adopted applies to the United States, they all apply, for they are all enumerated under the expression, "The United States adopts * * * the following rules." Now, let us see where this construction will lead. It is provided:

> The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it.

If this applies to the United States, then we could not blockade the canal for our own safety, and could not send a vessel of war through it for our defense. Again, this rule is perfectly reasonable as to foreign nations, but unreasonable as to the United States.

Rule 3 provides:

> Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be *strictly necessary;* and the transit through the canal shall be effected with the least possible delay—

And so forth.

If this rule applies to the United States and we should happen to be a belligerent we could not revictual nor take any stores in our own canal "except so far as may be *strictly* necessary." If we should take one biscuit more than necessary we would be open to the severest condemnation, and even if we took no more than was strictly necessary we would be compelled to eat as we ran in order that we might pass through the canal "with the least possible delay." It might be well enough to apply this rule to foreign vessels, but it would certainly be ridiculous to apply it to ours.

Rule 4 provides:

> No belligerent shall embark or disembark troops, munitions of war, or warlike materials, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

This rule might well apply to foreign nations, but to apply it to the United States would seriously cripple our right of self-defense and place us more or less at the mercy of the nation with whom we were at war.

Rule 5 declares:

> The provisions of this article (3) shall apply to waters adjacent to the canal, within 3 miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

If this rule applies to the United States when a belligerent, and we should deem it necessary to send out a vessel of war to await the coming of an enemy, if the enemy did not arrive within 24 hours, we would have to run back into the canal like a squirrel to its hole, and, after spending a short while, return; and if the enemy did not appear in the next 24 hours, we would have to run back again, and thus play hide and seek until the enemy appeared. And when he did appear, if we should engage him and he should attempt to depart, we could not follow him until we had waited for 24 hours, by which time pursuit would be idle. It is true we might remain more than 24 hours if we were in distress, and the only way in which we could remain longer would be to get in that condition.

I know that war terminates all treaties as between the countries at war. But when a treaty has been made by one nation with all the nations of the world that observes its rules, which rules govern it as well, under such treaty it can not blockade the canal, even in time of war, against the nations with which it is at peace.

I am aware it has been conceded by the British Government that the United States, being the sovereign charged with the protection of the canal, can exercise belligerent acts. But this concession only strengthens the position that, as the rules applying to a condition of belligerency do not govern the United States, none of the others apply, because they are all adopted together and are not subject to separation.

The sixth rule more forcibly, if possible, than the others demonstrates that the rules we have made do not apply to the United States. By its provisions——

> The plant, buildings, and all works necessary to the construction of the canal, * * * in time of war as in time of peace, shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

I dare say no Senator will be bold enough to contend that this rule applies to the United States, for if it does it would appear in case of belligerency that the United States, fearing it would attack or injure or do some act to impair the usefulness of its own canal, concluded to establish a rule in order to prevent such a terrible catastrophe.

So it is, as each rule is considered, the contention that it applies to the United States becomes more and more absurd, until we are absolutely amazed that sensible men should occupy such an untenable and nonsensical position.

The intention and plain interpretation of the treaty is that the United States, after building this majestic structure, threw it open to all nations that would observe its rules on terms of "entire equality," guaranteeing neutrality as between them in case of belligerency and agreeing that the charges for traffic should be just and equitable.

The United States being the owner of the canal, and under the plain and positive language of the treaty having "*all the rights incident to the construction,* as well as the *exclusive right of providing for its regulation and management,*" had the undoubted right as sovereign to make rules for its government, declaring that as to all nations that observed those rules the canal should be free and open on terms of entire equality. But it does not operate its own canal by virtue of any rules; it uses it as the owner. If its own right of use, like that of other nations, is made dependent upon its rules, and it should violate them, it would forfeit the right to use its own canal. Such an idea is monstrous and can not be entertained for a moment.

This is an international treaty, affecting only international affairs. National and domestic subjects are not included in its terms, for as to these every free and self-respecting nation exercises unlimited sovereign power. The surrender of this sovereign power can not be inferred, but must be expressed in the plainest and clearest terms, if indeed it can be surrendered, under any circumstances. Our coastwise traffic is exclusively domestic. Under our laws and treaties all nations are positively prohibited from engaging in it, and have been for a hundred years. Under that traffic we do not compete with any foreign nation. We are prohibited by treaty and laws from engaging in the coastwise traffic of every foreign nation. Every nation on the globe reserves this traffic as a purely domestic concern. The fact that our coastwise trade will pass through the canal does not alter or affect its character. It is confined to American ports and American vessels owned and controlled

by American citizens. Great Britain can not compete with us and has conceded through her representative, Innes, that "it may be" we have the right to exempt all bona fide coastwise vessels. This contention as to coastwise traffic is correct, even if the rules apply to the United States. But as these rules do not apply to the United States, it is at perfect liberty to exempt all its commerce of every character.

Not only was Great Britain released from responsibility and all protection of the canal, but the United States flatly refused to allow the insertion of article 3 of the first Hay-Pauncefote treaty binding her to bring the treaty to the notice of other powers and invite them to adhere to it. The memorandum of Secretary Hay shows this was done deliberately, the United States taking the position that the adoption of that article might be construed as making other powers parties to the contract and giving them contract rights in the canal, "which was *peculiarly an American affair.*" Besides, it is stated that none of these powers had anything to part with in consideration for the privilege.

Here again the absolute right of the United States to control was plainly manifested.

The provision requiring that other nations who obtained the benefits of the canal should observe the rules provided by the United States was inserted to meet the views of Lord Lansdowne, who thought if this should not be done other powers would have an advantage over Great Britain, who had bound herself to observe the rules, in that they would not be similarly bound. So it is Lansdowne agreed that the United States had authority to settle this matter and only asked equality of treatment as between *other countries and his own*, not as between his country and the United States.

In the first Hay-Pauncefote treaty the United States was prohibited from erecting fortifications. This was omitted from the second treaty, but it was provided that the United States should "be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder." Afterwards when the United States undertook to fortify the canal, Great Britain made a feeble protest, but finally withdrew it. This again proves conclusively that five of the six rules provided by the United States were not regarded by Great Britain as having any control over or in any way appertaining to the action of the United States. If five or six rules did not include the United States in the expression "all nations," how can it be true that the remaining rule includes it? Either all or none have application to the United States as being embraced in the words "all nations." This concession as to five rules was rendered absolutely necessary by every principle of common sense, because an attempt to apply them led to a manifest absurdity. When fully considered, the application of the first rule is equally absurd, but this could not be conceded by Great Britain without surrendering her whole contention.

However, even if rule 1 does apply, it can not be held to embrace coastwise ships. The rule provides:

> There shall be no discrimination against any such nation or its subjects in respect of the conditions or charges of traffic or otherwise.

After the treaty of 1815 between the United States and Great Britain heretofore referred to, Congress passed a law providing for the exemption of coastwise steam vessels of the United States from the payment of pilotage charges. Promptly a British subject instituted suit, contending that this law was a violation of the treaty. In that case, Olsen *v.* Smith (195 U. S., 332), Justice White held that there was no merit in the contention; that the treaties had reference alone to ships engaged in the foreign trade, and did not apply to coastwise vessels. It will be observed there was no exception as to coastwise vessels in the treaty, though Great Britain had for nearly 100 years uniformly charged our foreign ships from three to six times more than her coastwise vessels.

Said the Supreme Court in the Olsen case:

> What we do or omit to do with regard to our coastwise trade is of no concern to any nation, for they can not complain with regard to a traffic in which they have no interest. No regulation, exemption, or privilege which we see fit to grant to our coastwise trade is a just subject of complaint, for it does not concern vessels engaged in the foreign trade.

This opinion was rendered more than 10 years ago, and has never been questioned or objected to by Great Britain.

The Hay-Pauncefote treaty does not apply to or in anywise affect coastwise vessels of either country, as they had been otherwise provided for both by treaty and statute. The language in the Hay-Pauncefote treaty is similar to that in the treaty of 1815. But it is said this is only a decision of an American court and can not govern Great Britain. This contention is without force, because the Supreme Court only recognized and reiterated the interpretation theretofore pursued by Great Britain for 90 years. Both countries having acted upon this construction must be held to have considered it applicable to the language employed in the present treaty, especially as there is no specific statement to the contrary. By instituting a comparison of a treaty in dispute with other treaties, whether prior, posterior, or contemporary upon the same subject between the same parties, the intention may generally be fairly and safely ascertained. (Phillimore's International Law, 103.)

But it is not necessary that we should refer to the treaty to ascertain our rights. Independent of the treaty, our rights are established by ownership, and we could not legally surrender them by treaty.

While Great Britain denies the right of the United States to exempt her coastwise or other vessels of commerce, nevertheless she agreed to the treaty negotiated with Colombia January 22, 1903, in which the United States guaranteed that Colombia should have the right to transport over the canal its vessels, troops, and munitions of war at all times free of charge. Now, how could the United States confer a right on Colombia which it did not possess and could not exercise for its own benefit? By agreeing to that treaty Great Britain in effect conceded the right of the United States to free vessels both of commerce and war. It can not be contended that the consent of Great Britain conferred any right to make the treaty, for the United States under the treaty was conceded all rights incident to the construction of the canal as well as the exclusive right of providing for its regulation and management. Great Britain had no more right than any other nation observing the rules. The whole effect of the act of Great Britain was to concede to the United States the power to confer such rights on Colombia.

On November 18, 1903, only 10 months after the treaty with Colombia, which was not ratified, Panama, having seceded from Colombia and been recognized by Great Britain, made a similar treaty with the United States, except that she granted territory, in which it was agreed that she should have substantially the same toll rights theretofore given Colombia. Great Britain, having full knowledge of this transaction, never made any objection until November 14, 1912, twelve years after the treaty was proclaimed, when Secretary Grey entered his objection in his letter to Secretary Knox—although Chargé Innes, July 8, 1912, made no complaint—to the granting of free tolls to Panama.

I have said, and I repeat it, that the objection to granting free tolls to Panama involves our title to the territory where the canal has been constructed. That grant was a part of the consideration to Panama for the territory. If we can not guarantee the rights conferred on Panama the treaty is in peril. For 12 long years after the treaty was proclaimed Great Britain remained silent. She saw hospitals crowded with the victims of yellow fever; she witnessed the death of hundreds of Americans engaged in that great and perilous construction; she saw the removal of mountains and the erection of locks involving enormous expense, and never raised her voice, for she knew that on account of her immense merchant marine she would obtain as much benefit from the canal as the whole world beside. But when she saw that the canal was almost completed, and when every other nation was rejoicing, she, and she alone, raised her voice in solemn protest. She misled the United States by reason of her silence and she misled the United States by reason of her consent that the same privileges should be accorded to Colombia. Morally, if not legally, she is by reason of her conduct estopped from all complaint. Having failed to speak when she should have spoken, equity and good conscience require that she should now remain silent.

The Republic of Panama made an exceedingly valuable concession, many millions of times more valuable than the chips and whetstones conceded by Great Britain, a concession that no other nation in the world could make, accepting certain compensation and privileges therefor, by reason of which she was entitled to preference over every other nation by every principle of international law, a principle recognized by Great Britain herself concerning our treaty with the Hawaiian Islands.

In 1876 the United States entered into a treaty with Hawaii by the terms of which mutual trade concessions were made. Before that treaty Great Britain and Hawaii made a treaty containing the most-favored-nation clause. Notwithstanding this, Great Britain admitted, using her own language:

> As the advantages conceded the United States are expressly stated to be given in consideration as an equivalent for certain reciprocal concessions on the part of the United States, Great Britain can not, as a matter of right, claim the same advantage for her trade under the strict letter of the treaty of 1851.

Our adversaries lay great stress on the expression in the preamble of the treaty, "without impairing the general principle of neutralization established in article 8 of that convention" (meaning the Clayton-Bulwer treaty).

This expression does not directly or indirectly confer rights on Great Britain equal to those possessed by the United States. It simply means, as shown by the treaty itself, that the United States, in case of war, will not allow the canal to be used by one belligerent foreign nation to the detriment of any other. Of course it does not mean that the United States will preserve the neutrality of the canal against itself in case of war or otherwise. The word "neutral" implies the existence of no less than three parties, for the United States as one party could not preserve the neutrality of the canal except as between two belligerent parties.

It is contended that the term "general principle of neutralization" includes all regulations of traffic. This contention is without merit. It means freedom from attack, and nothing more. In Moore's International Law Digest "neutralization" is defined:

Strictly speaking, the term "neutralization," when applied to a canal, refers to a condition under which the canal would be closed to the ships of war of belligerents. The term, however, has come to be used in a broader sense than this, so as to include an arrangement whereby protection is sought to be guaranteed against hostile attack or hostile interruption, while the same freedom of use is sought to be assured in war as in peace.

Those who favor the repeal universally resort to article 8 of the Clayton-Bulwer treaty and argue that the canal is "open to the citizens and subjects of the United States and Great Britain on equal terms."

In the first place, they forget that article 1 of the present treaty specifically provides that "*the present treaty shall supersede*" the Clayton-Bulwer treaty.

There is absolutely no part of the old treaty left in force. To supersede means "to set aside," "to render useless." In other words, the Clayton-Bulwer treaty was rendered useless and was set aside by the new convention.

But we are told it is revived as to article 8 by the statement in the present treaty that it is adopted "without impairing the 'general principle' of neutralization established in article 8." The "*general principle*" is not impaired, it is true, but the particular characteristics of the article are destroyed. When we examine the facts and circumstances connected with and expressed in article 8 it becomes manifest that only "the *general* principle" is not impaired. By reference to that article it will be seen in the first place that it provided—

They hereby agree to extend their protection *by treaty stipulation* to any other practical communications—

And so forth.

They did not agree to extend their protection *then*, or the words "by treaty stipulation" would not have been used. They would have been entirely superfluous. But waiving this, they agreed then and there to so extend their *joint* protection to any other practical route. No one will contend that in the new treaty Great Britain extended its joint or separate protection to any route.

Again in that article it was declared to be *jointly* understood by the *two Governments* that—

The parties constructing or owning the same should impose no other charges or conditions of traffic thereupon than the aforesaid *Governments* shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall be open on like terms to the citizens and subjects of every other State which is willing *to grant thereto such protection* as the United States and Great Britain engage to afford.

Now, as has been said, in the first place, it is apparent at that time that it was not contemplated that either the United States or Great Britain should construct the canal, for they bound themselves to protect the parties who constructed or owned it, and all other nations, in order to enjoy equality, were to grant similar protection. Under the old treaty Great Britain bound herself to protect, while under the present treaty she does not bind herself to protect. Under the old treaty neither the United States nor Great Britain was to construct the canal; under the present treaty the United States alone is charged with that responsibility. Under the old treaty the charges were to be approved by *both* Governments; under the new treaty the United States *alone* fixes the charges, agreeing that they shall be just and equitable. Under the old treaty the rules for the government of the canal were made *jointly* by the two countries; under the present treaty the United States *alone* makes these rules.

In other words, the joint enterprise of 1850 became the single enterprise of 1901. The conditions and considerations being changed, the obligation is necessarily changed. The language of the present treaty makes it perfectly plain, not that the rules governing the Suez Canal are to govern the Panama Canal, but the language is specific that the "United States, as the basis for the neutralization of the said canal, *adopts the following rules*, substantially as embodied in the convention of Constantinople for free navigation of the Suez Canal; *that is to say*," and so forth.

The rules are then set forth fully and with perfect clearness. By "substantially" is meant the substance of the rules as applicable to the difference in circumstances and conditions surrounding the two canals. Hence, to make everything certain, *the rules are themselves inserted* in the treaty, and hence we are relieved of any consideration of the old treaty in order to determine them. It is unnecessary to theorize as to what the rules are, because they are described as the "*following rules*" and then specifically set out. To say that Great Britain, who was entitled to equal treatment with the United States under the Clayton-Bulwer treaty, now that she is relieved of every burden expressed in that treaty, in consideration of which she was to have this privilege, while she escapes the burdens is to retain the privileges is ridiculous. The consideration having failed the privilege granted by reason thereof necessarily fails. To say that Great Britain, who was to have equal privileges with the United States in a canal to be built by *third persons*, now that the United States agrees to build the canal or have it built, is to retain the privilege is outside the realm of reason. Again, the consideration having failed, all equality fails, for there can not be benefits where there are no burdens.

It is plain that the neutralization referred to in article 8 of the Clayton-Bulwer treaty is the freedom which flows from *joint* protection and *joint* responsibility, for if the United States and Great Britain, together with the other nations, extend protection, such protection conclusively establishes the neutrality of the canal as among them.

When the present treaty was sent to the Senate it was accompanied by a carefully prepared statement of Secretary Hay showing all that occurred during its negotiation, including all amendments proposed and considered after the action of the Senate on the first Hay-Pauncefote treaty, which Great Britain declined to accept.

This statement fails to show, either directly or indirectly, that there was any contention during all that time that the principle of neutrality contained in the present treaty applied to the equal treatment or equality of rates with Great Britain. On the contrary, it shows that every mention of neutralization had reference to a state of belligerency.

Great Britain was largely induced to agree to the present treaty—

Says Secretary Hay—

because she was relieved entirely from the making of rules for neutralization, from the enforcing of neutrality, and the maintenance of the security of the canal.

To this may be added she was relieved from all expense.

The contention of Secretary Grey in his protest was a mere afterthought, as by including in neutralization the fixing of equality of rates, and so forth, he hoped to hinge a claim that the United States could have no preference concerning her own commerce.

Lord Lansdowne, in his memorandum submitted August 3, 1901, showing that he fully understood the meaning of the term "substantially" as used in the description of the rules adopted, in speaking of the rules for neutralization, said:

In form the new draft differs from the convention of 1900, under which the high contracting parties, after agreeing that the canal might be constructed by the United States, undertook to adopt certain rules as the basis upon which the canal was to be neutralized. In the new draft the United States intimate their readiness "to adopt" *somewhat similar rules* as the basis of the neutralization of the canal. It would appear to follow that the whole responsibility for upholding these rules and thereby maintaining the neutrality of the canal would henceforward be assumed by the Government of the United States.

Again he says:

The change of form is an important one; but in view of the fact that the whole cost of the construction of the canal is to be borne by that Government, which is also to be charged with such measures as may be necessary to protect it against lawlessness and disorder, his Majesty's Government is not likely to object to it.

I have nowhere seen a more comprehensive definition of the word "neutralization" as used in the treaty than in a very able address delivered by the junior Senator from Arkansas [Mr. ROBINSON] before the Michigan State Bar Association, July, 1913. Said he:

This term has an accepted meaning in international law. It relates to a state of war The rules of the treaty are therefore applicable in case of war and in nowise control the operation of the canal in time of peace. They are designed to secure in spite of conflicts the uninterrupted use of this canal, to preserve it from seizure or destruction—the obligation to maintain neutrality imposed by the treaty on the United States implies its right to do the very things forbidden by the rule to other nations—to blockade the canal, to embark and disembark troops, and to take munitions of war; to blockade the canal against the warships of any belligerent seeking to occupy the canal for naval purposes. * * *

The rules of neutralization do not establish the theory of identical tolls, but they do deny any nation at war with another the right to use the canal for offensive purposes or to the exclusion of others.

But suppose we admit for sake of argument that the principles of neutralization apply to identical tolls. That would by no means apply to the United States, for she is making rules for the government of her own canal as to all nations observing those rules and not for the government of herself.

Adopting, however, the construction contemplated by the repealants, that the United States is governed by the rules she has made for the government of others, then it follows that the canal shall be free and open to the vessels of commerce and of war of the United States *on terms of entire equality*, so that there shall be no discrimination against it or its citizens in respect to the conditions or charges of traffic, *or otherwise*. Now, if this be true, how can it be open on terms of entire equality to the United States, which notoriously refuses to grant subsidies to her ships, if the ships of the world which are subsidized are to be allowed to use the canal on terms of equality with her? How can their use under such circumstances be on entire equality with hers? How can her ships without exemption be placed on entire equality with those of Great Britain, who pays subsidies annually of more than $9,000,000? How can the United States compete with these subsidized ships? There is but one way in which this competition can be met, but one way in which we can be placed on terms of entire equality and that is by exempting our vessels from tolls; and if the construction contended for is correct it necessarily gives us a perfect right to exempt our vessels from the payment of tolls in order that we may have this entire equality. It can not for a moment be supposed that the United States is to be the only country on earth that shall pass its unsubsidized ships through the canal in competition with the subsidized vessels of the world. If this be true, then our commerce will be completely eliminated from the canal, in and about which we have paid $400,000,000. All our citizens can do will be to sit on the banks and witness the flags of all nations save their own floating in triumph over the canal. Truly an uninspiring picture to an American.

Mr. Chamberlain, United States Commissioner of Navigation, recently stated before the Interoceanic Committee that we have only 363 coastwise vessels of sufficient tonnage to use the canal, and that according to his information 92 per cent of these are owned or controlled by railroads, and hence are prohibited from using the canal. So that we have only 29 coastwise ships to use in the canal. He further stated that to compel our coastwise vessels to pay toll through the canal would mean ruin for them unless subsidized. And yet the repealants would deny exemptions, knowing that subsidies will not be granted to our coastwise vessels. Even if we are allowed the exemption we will not be placed upon entire equality with Great Britain and other nations. More than one-half of the commerce passing over the canal will be British commerce. It is estimated that it will require a large sum yearly for the upkeep of the canal and that for some time at least our annual deficit will amount to $7,000,000. This being true, one-half of that amount will be expended for the benefit of Great Britain, who will receive at least one-half the benefits.

And if we are to be governed by terms of entire equality, even aside from what I have said, how could such equality exist unless all nations of the earth should share equally with us the total cost of this stupendous construction and its annual upkeep?

Concerning the remission of tolls as against subsidized ships, President Taft in his message of December, 1911, said:

> I am confident that the United States has the power to relieve from the payment of tolls any part of our shipping that Congress deems wise. We own the canal; it was our money that built it. We have the right to charge tolls for its use. These tolls must be the same to everyone, but when we are dealing with our own ships the practice of many Governments in subsidizing their own merchant vessels is so well established in general that a subsidy equal to the tolls can not be held to be a discrimination in the use of the canal. The practice in the Suez Canal makes this clear.

So that whether the United States is or not included in the expression "all nations" the exemption of coastwise vessels is justified.

Four Presidents of the United States before the Hay-Pauncefote treaty was made distinctly said, in substance, that the canal was to be an American canal built and controlled by the United States.

After the treaty was adopted two other Presidents gave their construction of its meaning.

Mr. Roosevelt has spoken repeatedly, but for the sake of brevity I refer only to the following:

> I believe the position of the United States is proper as regards coastwise traffic. I think we have the right to free bona fide coastwise traffic from tolls. I think this does not interfere with the rights of any other nation, because no ships but our own can engage in coastwise traffic. There is no discrimination against other ships when we relieve the coastwise trade from tolls. I believe the only damage that would be done is the damage to the Canadian Pacific Railway. * * * I do not think it sits well on the representatives of any foreign nation * * * to make any plea in reference to what we do with our own coastwise traffic.

In another message to Congress President Taft said:

> After full examination of the Hay-Pauncefote treaty and of the treaty which preceded it, I feel confident that the exemption of the coastwise vessels of the United States from tolls and the imposition of tolls on the vessels of all nations engaged in the foreign trade is not a violation of the Hay-Pauncefote treaty.

Again, in a memorandum submitted to Congress at the time he approved the bill exempting coastwise vessels from the payment of tolls, after setting out the rules adopted by the United States in the treaty, he said:

> Thus it is seen that the rules are but a basis of neutralization intended to effect the neutrality which the United States was willing should be the character of the canal and not intended to limit or hamper the United States in its sovereign power to deal with its own commerce, using its own canal in whatever manner it saw fit.

These utterances are in full accord with the statements of Secretary Knox and the public utterances of Stimson, Secretary of War, and Nagel, Secretary of Commerce and Labor.

Our course in exempting coastwise vessels has been approved by six Presidents; impliedly by the Supreme Court of the United States; by three Secretaries of State; by the governors of a number of States; by ex-Secretary of State Olney; by ex-Attorney General Bonaparte; by Hon. Frank Fuille, law officer of the Isthmian Canal Commission; by Hon. Hannis Taylor and other distinguished writers on international law; by a number of the great judges of Federal and State courts; by a large majority of leading statesmen and publicists in this country and a considerable number abroad; indirectly by Mr. Innes, head of the British legation; by a majority of both Houses of Congress in enacting the law; by the three leading political parties in their platforms in 1912; by the recorded votes of 14,000,000 American freemen; and by President Wilson while a candidate for President.

But if the repealants are correct in their contention it follows that the treaty-making power surrendered the right of sovereignty of the United States to control her domestic concerns, surrendered the welfare of her people, and endangered the safety and materially injured, if not destroyed, her commerce, those who negotiated and ratified it under the law of nations not only acted beyond their authority but betrayed their country, and consequently the treaty is utterly void.

In Vattel's Law of Nations, section 160, the rule is laid down:

> Since in the formation of every treaty the contracting party must be vested with sufficient powers for the purpose, a treaty pernicious to the state is null and not at all obligatory, as no conductor of a nation has the power to enter into engagements to do such things as are capable of destroying the state, whose safety the government has intrusted to him. The nation itself, being necessarily obligated to perform everything required for its preservation and safety (book 1, sec. 16, etc.), can not enter into engagements contrary to its indispensable obligations.

Heffter (German writer), in his work on International Law, lays down the rule that a state may repudiate a treaty "when it conflicts with the rights and welfare of the people." (98.)

Hautefeuille (French writer) declares:

> A treaty containing the gratuitous cession or abandonment of an essential natural right * * * is not obligatory. (109.)

Bluntschli (German writer) expresses the opinion:

> A State may hold treaties incompatible with its development to be null and void. 455–456. (See Hall's International Law (English), 374, citing the three foregoing authorities with approval.)

Woolsey's International Law declares:

> When a treaty-making power flagitiously sacrifices the interest of the nation it represents such treaty has no binding force. The treacherous act of the government can not be justly regarded as the act of the nation and forms should give way to reality. Moreover, the other party to the treaty ought not to draw advantage from the iniquity of an agent whom it has itself tempted. (Sec. 101–104.)

And last, though by no means least, our own Hannis Taylor, whose great work on international law is recognized as a leading authority throughout the world, fully sustains the principles enunciated in the authorities cited.

We are flippantly, at times almost insultingly, told that our objection to repeal is in the interest of the coastwise ship monopoly, and on this groundless assumption we are arraigned by our adversaries. The question has been asked, "Will we hide behind the flag while we burglarize the American Treasury for the benefit of the coastwise shipping interest?" Even if the charge were true, it is better by far that we should favor a monopoly to our own people than to grant a monpoly to Great Britain with her subsidized ships, the transcontinental railroads of Canada, and the English-owned railroad of Lord Cowdray in Mexico. But the charge is absolutely and manifestly false. I will retort, "Shall we hide behind what we are pleased to call the honor of our country in order to rob the American people for the benefit of the transcontinental and ship-owning railroads and Great Britain?" It is an old game, as old

as time, that in order to accomplish unfair designs and prevent suspicion the guilty party should call the other "thief" first. Great Britain proceeded upon this theory when she charged us with violating the treaty, and some of her friends in Congress have proceeded on the same theory when they charge us with acting in the interest of a monopoly. But the people of the United States can not be deceived by this fallacious accusation. They know that in the law granting free tolls to our coastwise ships there is a clause prohibiting all trust and railroad owned ships from passing through the canal.

The proof before the Interoceanic Committee shows that the transcontinental and other railroads protested against the exemption, and proof before the Lobby Investigating Committee shows that the railroads spent a considerable sum of money in the employment of a lobbyist to prevent the incorporation in the law of the provision to prevent ships owned or operated by any railroad, or in which any railroad may have a direct or indirect interest, from competing with traffic through the canal.

But this is not all. The Tehuantepec Railroad, crossing Mexico south of Mexico City, connects Puerto Mexico, on the Gulf or Atlantic side, with Salina Cruz, on the Pacific, and is 190 miles long. It was built under contract with the Mexican Government by S. Pearson & Son, under the personal direction of Sir Weetman Pearson, alias Lord Cowdray, of England. The Mexican Government paid for the building and Sir Weetman negotiated the Mexican bonds. The road, with both the harbor improvements, cost $65,000,000.

After the road was completed in 1902, Sir Weetman, alias Lord Cowdray, took it over upon a contract with the Diaz government for 51 years, Mexico retaining only the right of inspection. Otherwise the property belongs completely to Lord Cowdray for that period. So it appears that this is essentially a British road.

The exemption of our coastwise vessels from the payment of tolls through the canal will destroy the usefulness of this road.

The American-Hawaiian Steamship Co. is almost its sole customer. It clears its ships in New York for Puerto Mexico. There it unloads, and freights its cargoes over the Salina course by way of Lord Cowdray's railroad. It charges $12 a ton freight from New York to Honolulu, and vice versa. Of this amount it pays Cowdray's road $4 on each ton.

In 1911 it carried 788,820 tons, all of which save 90,000 was American coastwise traffic. All these facts appear in the testimony of Mr. Dearborn, president of the road, before the House committee.

The contract between the railroad and the steamship company terminates with the opening of the canal, the result of which will be a yearly loss to the road of $2,952,280.

President Dearborn explained further that the steamship company would save 12 days now lost in unloading, reloading, and crossing from ocean to ocean.

Lord Cowdray is the English oil king. He owns the Tampico oil fields, in addition to an equal interest with Sir Lionel Carden in those lying near his road. Great Britain is now turning her battleships into oil burners, and depends on Cowdray for the oil to operate them. Doubtless the foregoing facts, among others, caused Great Britain to so quickly recognize Huerta's government. The great interest of Great Britain in protecting her subjects, and incidentally herself, by defeating coastwise-ship exemption is therefore apparent in Mexico. This, connected with the protection of the commerce of the transcontinental railroads of Canada, shows the gigantic British interests that are at stake.

These great interests are warring on our commerce simply because they know that their monopoly will be destroyed by toll exemption of coastwise vessels and the inhibition on trust and railroad owned ships from using the canal. So that instead of the friends of free toll fighting for monopoly, the shoe appears to be on the other foot. The interest of 29 coastwise vessels pales into utter insignificance when contrasted with that of the transcontinental and shipowning railroads and the English-owned Mexican railroad. These great monopolies will be fostered and fattened by denying exemption to the coastwise vessels of the United States.

Much has been said concerning the Suez Canal. It is unfortunate, considering her conduct, that Great Britain should even refer to that subject.

It is claimed for Great Britain that she only asks the United States to accord the same treatment in the Panama Canal that she accords in Suez. This is untrue. While it is true the rules of the convention of Constantinople apply to all vessels in time of war or peace without distinction of flags, "the rights of Turkey as the territorial power," together with the sovereign rights of the Sultan and the rights and immunities of the Khedive, are reserved. Nor must it be forgotten that Great Britain, who now so earnestly pleads for neutralization, is not bound to that principle in Suez. When the powers interested met in London in 1885, Sir Julian Pauncefote submitted this memorandum defining the British position:

> The British delegates in presenting this draft of a treaty as the definite regulation intended to guarantee the free use of the Suez Canal, think it their duty to formulate a general reservation as to the application of these provisions in so far as they may not be compatible with the transitory and exceptional condition of things actually existing in Egypt, and may limit the freedom of action by their government during the period of the occupation of Egypt by the forces of Her Britannic Majesty.

Nothing being accomplished at that meeting in 1887 a new draft of a convention was signed at Paris by Great Britain and France, subject to the concurrence of other powers interested. This draft was submitted to the other powers by Lord Saulsbury, accompanied with a note containing the reservation made by Sir Julian Pauncefote as above set out and was signed by the representatives of Great Britain, Germany, Austro-Hungary, Spain, France, Italy, the Netherlands, Russia, and Turkey, subject to the reservation. All the powers named except Great Britain are bound to respect the neutrality of the canal and to guarantee its free use by the ships of commerce and of war of all nations at all times.

As long as Great Britain occupies Egypt, whenever she concludes that it is to her interest to disregard this convention and utilize the canal for purposes of war she is at liberty to do so. She may exclude belligerent ships and close the canal to all commerce, as did Sir Garnet Wolseley in 1882.

The same man—Pauncefote—who thus procured a free hand for Great Britain in the Suez Canal, signed the treaty which it is claimed binds our country to do at Panama what Great Britain refused to do at Suez. Great Britain induced the powers to respect the neutrality of the Suez Canal, although she refused to do it; and now she contends that the United States is bound to guarantee the neutrality of the Panama Canal and give her equal rights of passage through it for all her ships.

But for a moment I call your attention to the dastardly conduct of Great Britain concerning the Suez Canal.

Prior to the opening of that canal the Mediterranean was a closed sea and all the commerce on it from the Far East was carried under the flags of Great Britain and Holland.

When De Lesseps was engaged in constructing the canal for a corporation, Great Britain, seeing that when completed it would admit other nations as competitors to her commerce, through Lord Palmerston placed every obstacle in the way of De Lesseps. He induced Said Pasha to withdraw 20,000 laborers from the canal and engage them in raising cotton. Of course this action delayed the construction of the canal.

However, in 1867, despite all difficulties, the canal was completed. Great Britain at once determined to obtain control of it, and Disraeli inaugurated the necessary steps to accomplish that end. He took advantage of the strained financial condition of Ismail Pasha, who had forced the Khedive to buy a sufficient number of shares in the canal company to give Egypt a certain control in the management, and bought these shares for Great Britain.

Great Britain, in order to accomplish her object, after the completion of the canal, proceeded to make herself its mistress. She fortified Gibraltar, Malta, and Cyprus, on the Mediterranean side of the canal, and at the outlet of the Red Sea she acquired the island of Perim, which she fortified. Having obtained these positions of vantage, she proceeded to occupy Egypt.

Notwithstanding these steps of aggression, Great Britain then professed that she would observe the principle of neutrality regarding the canal, but later, as we have seen, she made her occupation of Egypt the excuse for the reservation made by Pauncefote.

When Arabi Pasha revolted in 1882 he declared he would not violate the neutrality of the canal except at the last extremity, and only in case of some act of English hostility at some point of the canal.

Great Britain, always on the alert, saw her opportunity, and, on the pretense of her ownership of stock in the canal, but really for the purpose of obtaining full control, in August, 1882, forcibly took possession of the canal, tied up shipping at the gates or passing places, and put a gunboat at each end.

Rear Admiral Goodrich, of the United States Navy, reported these facts to his Government with a statement that he had "protested against this act of violence and spoliation."

Great Britain refuses to be bound by the rules which she seeks to make applicable to other nations, "but acts always and

everywhere consistent with the fundamental principles of her foreign policy, seizes whatever she can, holds all she has, and proclaims loudly her desire to preserve equal rights and to distribute the benefits of her Christian civilization."

In order to incite the interior of the country against free tolls it is contended that the exemption of coastwise vessels will not benefit the people except along the coasts.

If the producers of cotton in the interior of Texas and in other Southern States will have a new and cheaper outlet for their cotton, if the farmers of the Central West will have another and cheaper route over rivers connecting with the canal or otherwise by which to ship their grain, cattle, and manufactured articles and will be enabled to obtain articles at much cheaper rates from distant States of the Union than they can by rail, how can it be said that they will not be benefited?

A distinguished Representative said:

When you say that if you reduce the freight rates on the coast the rates in the interior will not be reduced, you might as well say that if you reduce the level of the water along the edges of a great lake that the interior of the lake will not be reduced.

So that while trade will continue between the coasts the people of the Middle West will get lower rates and new markets.

He gives an apt illustration of the coast trade. Canned salmon is one of the large industries along the Pacific coast, amounting to $30,000,000 last year. It can be shipped through the canal to New Orleans, thence up the Mississippi to St. Louis cheaper than by rail. Such a shipment can be made much cheaper through the canal and will result in material good to the consumer.

Recently an experimental shipment of barley was made from San Francisco to St. Louis by way of Panama. First by ship to Panama, thence by rail across the Isthmus to Colon, thence by ship to New Orleans, thence by barge up the Mississippi to St. Louis. The cost was $4,200 less by this method than by rail, although the bulk was broken to cross the Isthmus by rail.

Free coastwise ships will result in cheaper lumber, cheaper fruit, cheaper barley, and other articles from the western coast, all of which will be of great benefit to the consumer.

Of course all that has been said concerning shipments from the western coast applies with equal force to shipments from the eastern coast. Nor is there any weight in the argument that railroads will increase their rates. On the contrary, the exact opposite will result.

The railroads, of course, have a great advantage, on account of rapidity of shipment, but to maintain this will be compelled to reduce their rates.

Competition is the life of trade. Suppose the rate should be reduced from New York to Spokane and into Idaho and Montana and that part of the country, so that it is less than from Chicago, what would be the result. Chicago would simply reduce her rates to prevent New York from taking her market.

The persistent fight by the railroads before the committee recently in favor of repeal very plainly shows whether their rates will be reduced.

After expending $400,000,000 to build the canal, besides the millions we will be compelled in the future to expend to police, defend, and keep it in repair, shall we allow Great Britain, who gave substantially no consideration for the valuable rights she obtained under the treaty, perfect equality with the United States, thus destroying our commerce, weakening our national defense, and surrendering the right to control our domestic concerns? And especially shall we do all these things when she, by attacking the treaty with Panama, is endangering our title to the canal itself?

I have always been an advocate for peace. No one more dreads and despises war; but I am opposed to buying peace with money or by the sacrifice of the Nation's rights. I am opposed to peace at any price. Peace can not reign at the expense of justice and honor unless it be the peace of cowardice, the peace of despotism, or the peace of death.

A nation's integrity is its most priceless possession, and its sacrifice ever has been and ever will be the certain prelude to its destruction.

Our forefathers, in 1776, when this Nation was a weakling, fought and died to vindicate a great principle. They sought no compromise, but with heart and brain inspired with right and patriotism, they wrung independence from Great Britain. Again, in 1812, they fought and died to preserve their commerce and avenge the insults and outrages inflicted upon them by the same power.

The same country is now attempting to violate its treaty and is demanding that we surrender our right to regulate domestic affairs.

The people of the United States did not surrender in 1776; they did not surrender in 1812; and, with the graves of their forefathers around them, their spirits hovering over them, the inspiration of their deeds within them, and the flag proudly floating above them, they will not surrender now.

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). What is the pleasure of the Senate?

Mr. O'GORMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	O'Gorman	Shively
Bankhead	James	Oliver	Smith, S. C.
Bradley	Kenyon	Page	Thomas
Bristow	Kern	Perkins	Thompson
Burton	Lane	Pomerene	Vardaman
Chamberlain	Lea, Tenn.	Robinson	West
Chilton	Lee, Md.	Saulsbury	Williams
Clark, Wyo.	Lippitt	Sheppard	Works
Clarke, Ark.	McCumber	Sherman	
Cummins	Martine, N. J.	Shields	

Mr. LANE. I wish to announce the unavoidable absence of the Senator from Minnesota [Mr. CLAPP] on the business of the Senate in connection with committee work.

Mr. POMERENE. I desire to announce that the junior Senator from Missouri [Mr. REED] is necessarily detained from the Senate on important business.

Mr. SHIVELY. I desire to announce that the senior Senator from Missouri [Mr. STONE] is detained from the Senate on important business. He is paired with the Senator from Wyoming [Mr. CLARK].

The PRESIDING OFFICER. Thirty-eight Senators are present—less than a quorum.

Mr. SHIVELY. I ask that the names of absent Senators be called.

The PRESIDING OFFICER. The Secretary will call the names of absent Senators.

The Secretary called the names of absent Senators, and Mr. BRYAN, Mr. MARTIN of Virginia, Mr. NORRIS, Mr. OVERMAN, Mr. OWEN, Mr. SMITH of Georgia, Mr. SMOOT, Mr. SWANSON, and Mr. WARREN answered to their names when called.

Mr. LA FOLLETTE, Mr. HOLLIS, Mr. BURLEIGH, Mr. DILLINGHAM, and Mr. CRAWFORD entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-two Senators have answered to their names. A quorum of the Senate is present.

Mr. BRISTOW. Mr. President, I had intended to address the Senate this afternoon on the canal bill, but I understand it is desired to have an executive session. Therefore I shall not undertake to address the Senate to-night, but shall do so to-morrow afternoon, following the address of the junior Senator from New York [Mr. O'GORMAN], unless something should interfere.

Mr. SHIVELY. Mr. President, I desire to say to the Senator from Kansas that it is not the purpose to move at this time for an executive session, but to do so later, if the Senator will proceed with his remarks.

Mr. O'GORMAN. Mr. President, I ask that the canal bill be temporarily laid aside.

The PRESIDING OFFICER. Without objection, that will be done.

Mr. SMITH of Georgia. Before that is done I should like to give notice that on Monday, May 11, immediately after the close of the morning business, I desire to address the Senate upon the Panama Canal bill.

Mr. O'GORMAN. I desire to say a word further. The reference by the Senator from Kansas to an executive session was based upon information which I conveyed to him, and my information was based upon that given to me by Members on this side.

PROPOSED INCREASE OF RAILROAD RATES.

Mr. OWEN. Mr. President, on yesterday it was suggested by the Senator from Wisconsin [Mr. LA FOLLETTE] that he had not seen anywhere in the public press any denial from the President of the United States of the newspaper editorials to the effect that the President was in favor of having an increase in the freight rates of the railways.

I wish to have recorded in the RECORD the fact that on the 6th of April the President, in his usual interview at the White House with the various representatives of the leading metropolitan papers of the country, was asked this question by some of them:

They say you are trying to get an increase of the railroad rates, Mr. President?

He replied:

You know, I explained to you gentlemen before that I could not express any opinion about that, because the commission is a semijudicial body, and it would not be proper for me to do so.

HYACINTHE VILLENEUVE.

H. R. 6260. An act for the relief of Hyacinthe Villeneuve, was read twice by its title.

Mr. SMOOT. Mr. President, a few days ago the Senate passed a bill identical with the one that the Chair has just presented to the Senate. For that reason I desire to ask that immediate consideration of the House bill be granted, and then I shall enter a motion for a reconsideration of the vote——

Mr. OWEN. I feel compelled to call for the regular order on this matter.

Mr. SMOOT. This is the regular order.

Mr. OWEN. I think the unfinished business is the regular order. It should be.

The PRESIDING OFFICER. That, the Chair understands, has been laid aside. The Chair rules that this is the regular order. It is a message from the House of Representatives.

Mr. SMOOT. This is a message from the House of Representatives, laid before the Senate by the Presiding Officer.

Mr. OWEN. What has become of the regular order?

The PRESIDING OFFICER. The Chair understands that it was temporarily laid aside.

Mr. OWEN. A request was made that it be temporarily laid aside, but the request has not been granted by the Senate. It requires unanimous consent.

The PRESIDING OFFICER. The Chair understands that this was at the request of the chairman of the committee.

Mr. OWEN. I understand that, but it has to be laid aside by unanimous consent.

The PRESIDING OFFICER. The Chair is informed that at the request of the chairman of the committee a message of this character may be laid before the Senate at any time.

Mr. OWEN. Mr. President, I shall not insist on this procedure at this time, but I shall insist upon the regular order hereafter.

The PRESIDING OFFICER. The Senate will take cognizance of that.

Mr. SMOOT. I was stating that a bill identical with the one before the Senate passed the Senate the other day, and I now ask that this bill be immediately considered. Then I shall enter a motion to reconsider the vote of the Senate by which the bill passed the Senate the other day.

The PRESIDING OFFICER. A motion is made by the Senator from Utah that House bill 6260 shall be immediately considered.

Mr. GALLINGER. What is the title of the bill?

The PRESIDING OFFICER. The Secretary will state the title of the bill.

The SECRETARY. An act for the relief of Hyacinthe Villeneuve.

Mr. SMOOT. It grants title to a piece of land in North Dakota. The Senator from North Dakota asked unanimous consent the other day for the consideration of the bill; it was granted and the bill passed.

Mr. GALLINGER. I simply imitate the suggestion that so often emanates from the Senator from Utah in saying that this is a bad form of legislation, and that the bill ought to go to a committee; but I shall not make any point against it.

Mr. SMOOT. I wish to say to the Senator that if a bill identical with this had not already passed this body, I never would have asked for the present consideration of the bill.

Mr. GALLINGER. Similar bills have come here under similar circumstances, and the Senator has very wisely suggested that they ought to go to committees; but I shall not make the point.

Mr. SMOOT. Let it go to the committee, then.

Mr. GALLINGER. No; I do not make the point at all. I am willing that the bill shall be considered.

The PRESIDING OFFICER. Is there any objection to the immediate consideration of the bill?

Mr. OWEN. I think it ought to go to the committee.

The PRESIDING OFFICER. Objection is made. The bill will be referred to the Committee on Public Lands.

ELIZABETH MUHLEMAN.

Mr. OVERMAN. I ask the Chair to lay before the Senate the bill received to-day from the House of Representatives for the relief of Elizabeth Muhleman, widow of Samuel A. Muhleman, deceased.

The SECRETARY. H. R. 12191, an act for the relief of Elizabeth Muhleman, widow of Samuel A. Muhleman, deceased.

Mr. OVERMAN. There is on the calendar a bill (S. 4060) for the relief of Elizabeth Muhleman, widow, and the heirs at law of Samuel A. Muhleman, deceased, which was reported by me April 1 from the Committee on Claims. I ask that the bill just received from the House of Representatives be substituted on the calendar for the Senate bill.

The PRESIDING OFFICER. Without objection, that action will be taken.

Mr. OVERMAN. I ask that the Senate bill be postponed indefinitely.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Military Affairs:

H. R. 851. An act for the relief of the legal representatives of Napoleon B. Giddings;

H. R. 2728. An act for the relief of George P. Heard;

H. R. 3432. An act to reinstate Frank Ellsworth McCorkle as a cadet at United States Military Academy;

H. R. 4744. An act to authorize the appointment of John W. Hyatt to the grade of second lieutenant in the Army; and

H. R. 9147. An act to restore First Lieut. James P. Barney, retired, to the active list of the Army.

The following bills were severally read twice by their title and referred to the Committee on Public Lands:

H. R. 1517. An act for the relief of George W. Cary;

H. R. 3334. An act authorizing the quitclaiming of the interest of the United States in certain land situated in Hampden County, Mass.;

H. R. 4318. An act to authorize the Secretary of the Interior to cause patent to issue to Erik J. Aanrud upon his homestead entry for the southeast quarter of the northeast quarter of section 15, township 159 north, range 73 west, in the Devils Lake land district, North Dakota; and

H. R. 6052. An act for the relief of William P. Havenor.

The following bills were severally read twice by their title and referred to the Committee on Claims:

H. R. 900. An act for the relief of James Easson;

H. R. 932. An act for the relief of John W. Canary;

H. R. 2705. An act for the relief of David C. McGee;

H. R. 3041. An act to carry into effect findings of the Court of Claims in the cases of Charles A. Davidson and Charles M. Campbell;

H. R. 3428. An act for the relief of James Stanton;

H. R. 7633. An act for the relief of the personal representative of Charles W. Hammond, deceased;

H. R. 8808. An act for the relief of Baley W. Hamilton;

H. R. 8811. An act to execute the findings of the Court of Claims in the case of Sarah B. Hatch, widow of Davis W. Hatch;

H. R. 9851. An act for the relief of legal representative of George E. Payne, deceased;

H. R. 10172. An act for the relief of L. V. Thomas;

H. R. 10201. An act for the relief of the heirs of Theodore Dehon;

H. R. 11040. An act to carry out the findings of the Court of Claims in the case of James Harvey Dennis;

H. R. 11381. An act for the relief of the estate of T. J. Semmes, deceased;

H. R. 13240. An act for the relief of the legal representatives of James S. Clark, deceased; and

H. R. 14197. An act for the relief of the legal representatives of Mrs. H. G. Lamar.

H. R. 14229, an act for the relief of Henry La Roque, was read twice by its title and referred to the Committee on the Judiciary.

H. R. 1781, an act providing for the refund of certain duties incorrectly collected on wild-celery seed, was read twice by its title and referred to the Committee on Finance.

AGRICULTURAL APPROPRIATIONS.

Mr. GORE. I ask unanimous consent that the Senate resume the consideration of the agricultural appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 13679) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1915.

Mr. GORE. I ask that the Secretary read the amendment on page 18, that was passed over when it was first reached.

The PRESIDING OFFICER. Without objection, that will be done.

The SECRETARY. On page 18, line 13, it is proposed to strike out "$80,580" and insert:

$180,580: *Provided*, That of the sum thus appropriated, $100,000 shall be used for furnishing the primary markets in the cotton-growing States with a set of samples as standardized by the Government, and a sample of the bleached and unbleached yarns made from the different grades, showing the waste, tensile strength, and bleaching quality thereof.

Mr. GALLINGER. Mr. President, I will ask the Senator having the bill in charge if that proviso is not in the nature of a subsidy? We have heard a great deal about subsidies to the shipping interests of the country. Before this bill is passed I wish to call attention to various items in the bill that are direct subsidies to certain interests, and this is one of them.

Mr. GORE. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Oklahoma?

Mr. GALLINGER. I yield, because I am seeking information.

Mr. GORE. I do not care to interrupt the Senator from New Hampshire. I thought he had finished.

The PRESIDING OFFICER. The Senator from New Hampshire still has the floor.

Mr. GALLINGER. I am glad to be interrupted, Mr. President. I have raised the question in all seriousness.

Mr. GORE. It was, of course, the desire of the committee to rally as much support in behalf of the Agricultural appropriation bill as possible, and we thought that by inserting a subsidy we would have the unanimous and enthusiastic support, at least, of the senior Senator from New Hampshire.

Mr. GALLINGER. Would the Senator have any objection to my introducing as an amendment to this bill a provision taken from a bill that I introduced to rehabilitate the merchant marine, giving a subsidy to the shipping interests?

Mr. GORE. I have no objection whatever to the Senator introducing any bill or any amendment for which he feels disposed to stand sponsor.

Mr. GALLINGER. Would the Senator support that amendment?

Mr. GORE. I would not.

Mr. GALLINGER. The Senator admits that this is a subsidy, and the other is a subsidy.

Mr. GORE. There are subsidies and subsidies.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Utah?

Mr. GALLINGER. I yield to the Senator.

Mr. SMOOT. If that is the object of this amendment, I certainly shall make a point of order against it. I now make the point of order that it is general legislation on an appropriation bill; it increases an appropriation, and is not estimated for.

Mr. SMITH of South Carolina. Mr. President, I wish to call the attention of the Senate to the fact that in this bill we are spending several million dollars for the purpose of demonstrating to the farmer the best method by which we can increase his output. It seems to me it comes with ill grace for any Member on this floor to vote for an appropriation to teach the farmer how to make a larger crop and then make no effort to give him any knowledge as to the value of what he does make.

I am the author of this amendment. I proposed it for the reason that we have before us a demonstration in the form of these yarns, made under an appropriation secured by me to the last Agricultural appropriation bill, showing that the trade on account of the grades which it has arbitrarily fixed is making a difference of anywhere from $15 to $20 per bale; whereas by this test of the relative value of the different grades the Department of Agriculture has demonstrated that no such actual difference exists.

You and I are dependent for the textiles of this country upon the southern cotton grower. The only way you can make him prosperous is to make his work profitable. I do not see how any Member on this floor can vote millions of dollars for the purpose of increasing the output, and then make no appropriation whatever to teach those who produce the raw material what it is worth.

I have here a letter from the Department of Agriculture on this very point, which I ask to have read.

Mr. SMOOT. Before the Senator asks to have the letter read, I wish to ask him in all seriousness how it is possible to give information as to the different grades of cotton, showing the waste, the tensile strength, and the bleaching qualities, when it is——

Mr. SMITH of South Carolina. Here it is.

Mr. SMOOT. Wait a minute; I was asking a question. I know that one manufacturer can take half a bale of cotton, and another manufacturer can take the other half of the same bale, and the first one can work the cotton through one mill, and the other manufacturer can work the other half through the other mill, and the tensile strength of the yarn produced will not be the same.

Mr. SMITH of South Carolina. The Senator from Utah is not going to stand here, before an intelligent body of men, and introduce any such argument as that, for the reason that he knows that No. 1 yarn is a certain number of yards to the pound, and the increased twist determines the number of that yarn.

Mr. SMOOT. The Senator does not go far enough. Why does he not go further and explain, if he knows, about the manufacture of——

Mr. SMITH of South Carolina. Oh, I would leave all knowledge of all affairs to the Senator from Utah.

Mr. SMOOT. I have not asked the Senator to do that; but I do know that I can take a 30 or 40 or 60 run yarn made by one mill, and take the same number of yarn, or what are supposed to be——

Mr. SMITH of South Carolina. Ah!

Mr. SMOOT. Made by another mill, and the tensile strength will not be the same.

Mr. SMITH of South Carolina. Precisely. Now, I will ask the Senator from Utah a question.

Mr. SMOOT. Therefore, I say, who is going to judge as to what the strength should be? Is the department going to do so? If so, in what mill shall it be made—one in New Hampshire, one in North Carolina, one in South Carolina, or where?

Mr. SMITH of South Carolina. Mr. President, the Senator from Utah, as a matter of course, encyclopedic as he is, will understand that the department has also demonstrated that the speed of the gin had nothing whatever to do with the value of the cotton ginned. Before this appropriation of mine was secured authorizing the department to test it, that was another fiction by which the farmers of this country were systematically robbed.

The manufacturers would get a certain kind of cotton, and on account of its appearance they would declare that it was gin-cut cotton, that it was not in good form, and therefore that the farmers should lose from 1 to 2 cents a pound, or from $10 to $15 a bale. The department has proven that the speed of the gin has nothing to do with the quality of the output. The department standardized the grades of cotton, from good ordinary to middling fair—nine grades—five full grades and four half grades. The department took samples from the exchanges of the country and out of the whole made an average which represented the uniform grades of upland cotton produced in the South. It then sent some of each grade of this cotton to the mills at Danville, Va., and some of it to the textile department at Clemson College, S. C., and elsewhere, I believe. It was spun at these places with the same speed, with the same humidity, and with the same mechanical conditions surrounding it. As a result it was found that good ordinary bleached and good ordinary unbleached, as represented on this card, were practically the same as the other grades so far as tensile strength and bleaching qualities were concerned.

As a practical cotton grower, I want to call the Senate's attention to the fact that here is the middle grade; all below that grade brings a lower price and all above it brings a higher price. The trade made a difference of $15 per bale between middling and good ordinary. Under the impartial test of the department, made at Clemson College and at Danville, it was proven, as shown on this card, that there is practically no difference in the yarns made from the grades from middling fair to good ordinary. But the trade makes a difference of $15 a bale between middling and good ordinary, and $30 a bale between middling fair and good ordinary.

The department has impartially spun this yarn under conditions that should characterize every well-organized mill, using upland cotton, under the same mechanical conditions, with the same humidity and the same speed of the spindle, and has reached this result. I ask the Senator from Utah if some mill wants to make a little more time, thereby injuring the fiber by reckless speed, is he going to stand here and advocate that the farmer shall be penalized for such a manufacturer's benefit—that these samples shall not be given the farmer to protect him from this very condition?

Mr. SMOOT. Mr. President, the question asked by the Senator from South Carolina has nothing to do with what the tensile strength and bleaching quality of a certain size yarn may be in different sections of this country. The Senator knows that in some parts of the country the water has a great deal to do with it; again, the machinery has a great deal to do with it, as well as the humidity. This is the case with any size of yarn spun from any graded cotton.

Mr. SMITH of South Carolina. Then does the Senator from Utah mean to say that he is going to penalize the grower of cotton because some manufacturer increases the speed of his spindles to a point where it absolutely breaks the fiber, and because such a manufacturer happens to be located in a place where certain meteorological conditions or climatic conditions make it unprofitable to spin the stuff, when the department

has demonstrated that under right conditions—which are easily made available, because they have the very same in Clemson, the very same in Danville, and the very same in Fall River—it is easy under the modern processes of milling to get the same conditions in every mill?

When in a well-regulated mill, running with the same speed, with an artificial condition within the breaker room and the picker room and the slasher room you can without any additional cost produce the same condition in New England that you do in the South, and the same condition in the South that you do in New England, surely the Senator from Utah is not going to come here and say that because our mills have had a condition of speed and of climate that might not make the product as good in one as in the other he is going to penalize the grower and penalize the producer of the raw material because some man wants to use an old, worn-out system and thereby enrich himself at the expense of those who produce the cotton.

Mr. McCUMBER. Mr. President, I am always interested when it comes to grading cotton. I want, first, to answer the suggestion made by the Senator from Utah [Mr. SMOOT], that these samples would be of no benefit, because you could not compel a purchaser to buy according to such samples; but, after all, does not the Senator think it would put the seller upon fighting ground, at least, if he had a sample before him that he could compare with his own, and say, "Mine is just as good or better than that sample"? Would not it put him in a position, anyway, to demand his rights?

I am quite well satisfied that if we could have such a thing as Government standardization of grain, and we could have a sack of No. 1 northern, No. 2 northern, and No. 3 northern at every principal place of primary market, the farmer could come in, take a handful of it, then take a handful of his own wheat, compare them, and weigh them, it would help him considerably in demanding and securing the right kind of a grade if he happened to run up against one of the kind of grain buyers of whom the Senator from Minnesota [Mr. NELSON] spoke the other day, who are altogether responsible for our sufferings in my particular State. So I am in favor of that; but I want to ask the Senator from South Carolina a question before he goes away. As I understand, we now have Government standardization of cotton?

Mr. SMITH of South Carolina. Yes.

Mr. McCUMBER. Was that fixed by law?

Mr. SMITH of South Carolina. It was fixed by law.

Mr. McCUMBER. By the law of Congress?

Mr. SMITH of South Carolina. By the law of Congress.

Mr. McCUMBER. How on earth did the Senator get votes enough in the Senate to pass a bill to standardize cotton?

Mr. SMITH of South Carolina. I will state to the Senator from North Dakota that that miracle happened before I came here.

Mr. GORE. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Oklahoma?

Mr. McCUMBER. Yes.

Mr. GORE. I wish to say to the Senator from North Dakota that the Government has prepared a series of standard grades for cotton under an appropriation carried in an Agricultural appropriation bill, and it is proceeding to prepare grades of corn and of other grain under a similar provision in the Agricultural appropriation bill.

There is no law requiring cotton sold for interstate commerce to be sold on the basis of those standard grades. I have introduced a bill, which is now in the Committee on Agriculture and Forestry, requiring the standardization of cotton grades and requiring the persons who grade cotton for interstate shipment to use the official standard grades of the Government. I have introduced a like bill respecting grain grades, and it is my hope, with the earnest cooperation of the Senator from North Dakota, that we shall, sooner or later, be able to pass both of those measures through the Senate and through the other House of Congress, so that the use of these standard grades will be required in interstate commerce respecting both cotton and grain.

With the permission of the Senator from South Carolina [Mr. SMITH], I will proceed to say that it is estimated by the Department of Agriculture that the cotton producers of Texas alone lose $40,000,000 a year because the information respecting the actual utility of different grades of cotton is not in the possession of farmers and that utility is not acted upon in the trade. Now, there is no compulsory method of obliging purchasers to pay these prices based on these different utilities, but it is a matter of education. I assume that a farmer on 160 acres of land in Utah or in California, covered with rock and cactus, might be willing to sell it for one price, but if he knew it contained a gold mine he might exact a little higher price. When the producers of cotton learn that the actual utility in the different grades of cotton does not differ in accordance with the commercial grades, as they have hitherto existed in the trade, the farmer will probably insist on a little more generous price, or, at any rate, that is the hope of the department and the hope of those in the Senate who are concerned in the welfare and prosperity of the cotton producers of the South.

Mr. McCUMBER. I have no doubt in the world, Mr. President, that this would be most beneficial. You can very often take advantage of the seller of an article when he does not know what the article itself is worth, but if he has some standard by which to go, if he has some sample with which he can compare his own, then reading the market price of a particular thing that he has to sell, he will undoubtedly hold it until somebody will give him the grade to which it is entitled. If we furnish him the information that will enable him to determine to what grade he is entitled, I think we shall have done a great deal for him.

I, for one, can not agree with the Senator from Utah [Mr. SMOOT] that we could not afford to spend a hundred thousand dollars for this purpose, that might help the cotton growers in the saving of millions of dollars upon a single year's crop.

Mr. THOMAS. Mr. President——

Mr. McCUMBER. Just a moment. What has perhaps surprised me, Mr. President, more than anything else in this matter, is how we could get anything of this kind through, especially if the Senator from Alabama had been present and had opposed it with such eloquence as he uttered against grain standardization, stating that you might just as well have standardization for carrots and cabbages, and had the Senator from Missouri [Mr. REED] also been present, who declaimed against grain standardization, saying it was just as foolish to have standardization of grain as it would be to have standardization for turnips, eggs, and so forth—with that sentiment, which it seemed three-fourths of the other side agreed was logical, and voted accordingly the other day, I confess it has been a matter of great surprise to me how on earth we could have gotten a bill through the Senate which provided for Federal standardization of cotton.

In addition to that, I call attention to the fact that it will take something of an army of Federal employees to carry on this demonstration, to see that this work is done and that the farmers have an opportunity to see the demonstrating work done; it will take a great many more than it would have taken in all of the cities to have graded grain under the operation of the bill which I advocated the other day. It will take several times as many persons to carry into effect this provision; and yet that bill was assailed from all sides upon the ground that it was proposing to interject into the commerce of the country a great Federal machine with many Federal employees.

For the life of me, Mr. President, I can not see the difference between a Federal employee who goes to Minneapolis and grades a carload of wheat and a Federal employee who goes down to New Orleans and inspects and grades a bale of cotton. To me they look just exactly the same; and yet my friends from the cotton section, with the exception of a few of them—and I especially want to except my good friend from South Carolina [Mr. SMITH]—argued as to the viciousness of the appearance of a Federal inspector of grain up in Minnesota; and yet how lovely he appeared when he got down to New Orleans to inspect their cotton; how welcome he would be as a Government employee in the State of Louisiana and yet how objectionable he would be in the State of Minnesota or of Missouri or of Illinois. I now yield to the Senator from Colorado.

Mr. THOMAS. Mr. President, I quite agree with the Senator from North Dakota that there is no difference whatever between an inspector engaged in the work which he has described in Minneapolis and one engaged in the work which will under this amendment have to be done at New Orleans; but I should like to ask this question: If it be true—and I have no doubt the statement is well founded—that the State of Texas alone has lost $40,000,000 because of the lack of something of the sort described in this amendment, would it not be well for the losers of the $40,000,000 to put up the hundred thousand dollars which is desired for this purpose instead of asking Uncle Sam to do it?

Mr. McCUMBER. Well, Mr. President, I find myself forced to agree with those who think that Uncle Sam can do that work pretty well, because under his control it is done on a scientific, organized plan, and can probably be more effectively done than it can be done by the States. Furthermore, I do not know that the States have the information that is necessary to carry on this work. I am willing, at any rate, to grant them that amount. I know that this money could be spent in

very many ways that would not be as valuable to the country as it would be in increasing the cotton crop.

I am speaking upon this question at this time, because in the very next paragraph I shall offer an amendment to provide for the standardization of grain, not the inspection of grain by Federal employees, because the vote which was taken here the other day rather frightened me upon that proposition; but as all who spoke against inspection were in favor of Federal standardization, at least so far as their utterances went, I hope to have inserted in the bill, following this clause, a pro ision that has been proclaimed to be satisfactory to the entire trade of the country, and while it is not satisfactory to the farming element of the country, at least it is a step in the right direction; so I am going to appeal to those Senators who feel that the toilers in our fields should have protection to support me in that amendment.

Mr. President, I want to say a word with reference to the point of order. I think the point of order might possibly be leveled against the increase of the appropriation, but certainly I can not see how it is possible to claim that it is new general legislation. If I understand the rules correctly, when you provide for the expenditure of a certain sum of money for a certain purpose, you may also provide how it may be used to carry out that purpose, and an amendment that simply declares how the money appropriated is to be spent is not new legislation nor is it general legislation, because it is directed only against the method of the expenditure of that particular sum.

I have to-day been looking up the precedents on this subject, and I think probably I would be justified in calling the Chair's attention to a statement made by Vice President Fairbanks when he was in the chair. I will not read it now; but he declared that the precedents are very conflicting, so conflicting upon the subject of what constitutes general legislation that the Chair had nothing to follow in the line of precedents. The question has generally been submitted to the Senate, and the Senate itself has determined whether an item was general legislation or otherwise, according as to whether or not it wanted to pass the particular legislation. My examination of the authorities convinces me that the then Vice President was entirely correct in that statement, and that we really have no rule established by precedent as to what constitutes general legislation. We have this rule, however, Mr. President—and this is the particular thing I want to call to the Chair's attention—as stated by Senator Frye when President pro tempore of the Senate in a number of instances, whenever an item appropriates money for a particular purpose we can introduce and attach an amendment setting forth how the appropriation is to be carried into effect; in other words, we can limit it or in any way determine how the money shall be expended.

Mr. JONES. Mr. President, I want to ask the Senator from South Carolina a question, if he will allow me. Can he tell me how many sets of these samples this $100,000 will provide?

Mr. SMITH of South Carolina. The Department of Agriculture has made an estimate, and it says that—

If instead of furnishing full sets of grades—

That is, including what is called the half grades——

Mr. JONES. Would those be full sets?

Mr. SMITH of South Carolina. I think they will be sufficient. The department says:

If instead of furnishing full sets of grades the five principal grades—good ordinary, low middling, middling, good middling, and middling fair—were furnished, approximately 6,500 sets of grades and exhibits of yarns, etc., could be furnished.

That would take about $100,000.

Mr. JONES. In whose keeping or charge will these sets be placed?

Mr. SMITH of South Carolina. They will be placed in the hands of the buyers—that is, in the hands of the sworn weighers who are stationed at these places—and I have an amendment which I propose to offer to take care of that by providing that where sets shall be furnished the Secretary of Agriculture shall secure a proper individual to take care of them.

Mr. JONES. How are they made responsible for the safekeeping of these sets of samples?

Mr. SMITH of South Carolina. The samples are already put in such shape that they only need to be displayed, and the buyer, the individual, the sworn weigher, will himself be responsible for them. Very little care is necessary after they put them up in the form in which they now put them up.

Mr. JONES. Suppose a man takes a set of samples and puts them in his pocket and they are never again seen?

Mr. SMITH of South Carolina. Well, I suppose arrangements can be made, just as is now the case in sending out seed to the different farmers of our State for demonstration work.

Mr. JONES. As I understand, these samples are to protect the sellers of cotton from the men who buy. If you furnish the samples and put them in charge of the men who buy, it seems to me that there would be every inducement for them to get rid of the samples in some way, inadvertently or otherwise.

Mr. SMITH of South Carolina. I will state to the Senator that if we proceed on the supposition that no man will do his duty we will not get anywhere.

Mr. JONES. I do not understand that the men in whose hands these samples are placed are officials of the Government.

Mr. SMITH of South Carolina. Oh, no; but they are a check. The farmers demand them. They make requisition and indicate to the Department of Agriculture that they—the sellers, the producers—have made requisition. When they have made this requisition, and the samples are placed in the hands of the proper officials, the farmers will certainly see that the officials will always have the samples where they will be available for the farmers' benefit.

Mr. JONES. That is what I am trying to ascertain—in whose hands the sets of samples are going to be placed, and who is to be responsible for them. It seems to me that if we are going to make an appropriation of this kind we ought to make some provision specifying in whose hands the samples are to be placed, and providing for holding those persons responsible for their safe-keeping, and for their having the samples available whenever the sellers come in to sell. It seems to me that we shall find ourselves, at the end of the current year, with a demand for another $100,000 to replace samples that have been lost, inadvertently laid aside, misplaced, or something of the sort.

Mr. SMITH of South Carolina. I think that could be very well left to the Secretary of Agriculture. I intended to propose an amendment to the bill providing that these samples shall be furnished at such shipping points as he may prescribe, at the demand of the patrons of those shipping points.

Mr. JONES. Why not say "under such rules and regulations as may be prescribed by the Secretary of Agriculture"?

Mr. SMITH of South Carolina. Precisely; that is the point I make—"under such rules and regulations as the Secretary of Agriculture may prescribe for their safekeeping and proper exhibition."

Mr. McCUMBER. Mr. President, I was about to suggest to the Senator that even without the amendment the Secretary would undoubtedly make the necessary rules. He already has that authority; and I doubt not that there would not be a single little store, perhaps, in any town where cotton was marketed that would not be very glad to keep the samples there for the inspection of customers.

EXECUTIVE SESSION.

Mr. SHIVELY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After six minutes spent in executive session the doors were reopened, and (at 5 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Thursday, May 7, 1914, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate May 6, 1914.

ASSISTANT REGISTER OF THE TREASURY.

John Floyd King, of the District of Columbia, to be Assistant Register of the Treasury, to fill an existing vacancy.

UNITED STATES ATTORNEY.

Edward C. Knotts, of Carlinville, Ill., to be United States attorney, southern district of Illinois, vice William A. Northcott, whose term expires May 6, 1914.

UNITED STATES MARSHALS.

Cooper Stout, of Murphysboro, Ill., to be United States marshal for the eastern district of Illinois, vice Charles P. Hitch, whose term has expired.

Christopher C. Gewin, of Greensboro, Ala., to be United States marshal for the southern district of Alabama, vice Gilbert B. Deans, whose term has expired.

POSTMASTERS.

ILLINOIS.

George H. Luker to be postmaster at Staunton, Ill., in place of Henry A. Fischer. Incumbent's commission expired April 1, 1914.

KANSAS.

Celia Hughes to be postmaster at Weir, Kans., in place of Philip Moore. Incumbent's commission expired April 20, 1914.

James W. Morphy to be postmaster at Russell, Kans., in place of Lavelle H. Boyd. Incumbent's commission expires June 2, 1914.

KENTUCKY.

George W. Snyder to be postmaster at Warsaw, Ky., in place of W. B. Graham. Incumbent's commission expires May 19, 1914.

LOUISIANA.

E. O. Lalande to be postmaster at Napoleonville, La., in place of E. T. Dugas. Incumbent's commission expired January 26, 1914.

Washington J. P. Prescott to be postmaster at Garyville, La., in place of Robert E. Rosenberger. Incumbent's commission expires May 24, 1914.

MAINE.

Alfred T. Hicks to be postmaster at Auburn, Me., in place of Winchester G. Lowell. Incumbent's commission expired April 12, 1914.

Morrill McKenney to be postmaster at Richmond, Me., in place of Thomas G. Herbert. Incumbent's commission expires May 31, 1914.

MARYLAND.

Thomas Y. Franklin to be postmaster at Berlin, Md., in place of Charles C. Mumford. Incumbent's commission expired May 2, 1914.

Oliver C. Giles to be postmaster at Elkton, Md., in place of George M. Evans. Incumbent's commission expired March 28, 1914.

MASSACHUSETTS.

Lawrence J. Dugan to be postmaster at Webster, Mass., in place of William I. Marble. Incumbent's commission expired December 13, 1913.

John M. Hayes to be postmaster at North Abington, Mass., in place of Ernest W. Calkins. Incumbent's commission expired April 29, 1914.

William J. Kenney to be postmaster at Attleboro, Mass., in place of John A. Thayer. Incumbent's commission expired March 31, 1914.

Eugene Meagher to be postmaster at Rockport, Mass., in place of William Parsons. Incumbent's commission expired March 17, 1914.

MICHIGAN.

Edgar W. Farley to be postmaster at Yale, Mich., in place of E. Harvey Drake. Incumbent's commission expires May 25, 1914.

H. W. Hagerman to be postmaster at Sturgis, Mich., in place of Chauncey J. Halbert. Incumbent's commission expires June 2, 1914.

James A. King to be postmaster at Manistee, Mich., in place of William J. Barnhart. Incumbent's commission expired April 1, 1914.

Charles E. Lovejoy to be postmaster at Milford, Mich., in place of John E. Crawford. Incumbent's commission expired April 1, 1914.

F. W. Richey to be postmaster at Dowagiac, Mich., in place of Julius O. Becraft. Incumbent's commission expired March 17, 1914.

MINNESOTA.

Michael J. Daly to be postmaster at Perham, Minn., in place of George M. Young. Incumbent's commission expired April 13, 1914.

MISSOURI.

Henry S. Hook to be postmaster at Jamesport, Mo., in place of James C. Harrah. Incumbent's commission expired March 28, 1914.

MONTANA.

Clemens H. Fortman to be postmaster at Helena, Mont., in place of George W. Lanstrum. Incumbent's commission expires May 17, 1914.

Samuel Hilburn to be postmaster at Kalispell, Mont., in place of James R. White. Incumbent's commission expires May 31, 1914.

NEBRASKA.

J. O. Blauser to be postmaster at Diller, Nebr., in place of Samuel C. Hutchinson. Incumbent's commission expired January 12, 1914.

Claude J. Brown to be postmaster at Lynch, Nebr., in place of Albert C. McFarland. Incumbent's commission expired March 1, 1913.

Thomas T. Osterman to be postmaster at Blair, Nebr., in place of Wesley J. Cook. Incumbent's commission expired April 20, 1914.

Edward W. Roche to be postmaster at Kimball, Nebr., in place of Isaac Roush. Incumbent's commission expired December 17, 1912.

NEW JERSEY.

John J. O'Hanlon to be postmaster at South Orange, N. J., in place of Frederic B. Taylor. Incumbent's commission expired April 20, 1914.

George N. Smith to be postmaster at Wildwood, N. J., in place of J. Albert Harris. Incumbent's commission expired February 21, 1914.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 6, 1914.

PROMOTIONS IN THE NAVY.

Rear Admiral Charles F. Pond to be a rear admiral.
Commander Thomas Washington to be a captain.
Lieut. Commander James P. Morton to be a commander.
Capt. Walter McLean to be a rear admiral.
Asst. Naval Constructor Alexander H. Van Keuren to be a naval constructor.
Asst. Naval Constructor Edwin G. Kintner to be a naval constructor.
Asst. Naval Constructor Fred G. Coburn to be a naval constructor.
Pharmacist Richard F. S. Puck to be a chief pharmacist.

POSTMASTERS.

CALIFORNIA.

George R. Bellah, Oxnard.
Wright S. Boddy, Oakdale.
James A. Lewis, Carpinteria.
Lottie L. Miracle, Campbell.
Joseph Scherrer, Placerville.
James F. Trout, Avalon.
J. D. Wagnon, Sonoma.

KENTUCKY.

Goalder Johnson, Hickman.

MICHIGAN.

Peter F. Gray, Lansing.
John Loughnane, Lapeer.

VERMONT.

Patrick H. Harty, Saxtons River.

WYOMING.

Perle R. Herrin, Hanna.

WITHDRAWAL.

Executive nomination withdrawn May 6, 1914.

Thomas E. Glass to be postmaster at Jackson, Tenn.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *May 6, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, let Thy kingdom come in all fullness and possess our minds and hearts, that with a clearer vision, a wider sweep of knowledge, and a more earnest desire to do Thy will we may work together with Thee for the destruction of evil, that righteousness may be established in the earth, the longings of our souls be fulfilled, and all the world rejoice together in peace and happiness. In His name. Amen.

The Journal of the proceedings of yesterday was read and approved.

MEMORIAL EXERCISES AT NAVY YARD, BROOKLYN, N. Y.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of the concurrent resolution which I send to the Clerk's desk.

The Clerk read as follows:

House concurrent resolution 39.

Resolved by the House of Representatives (the Senate concurring), That for the representation of the Congress at the exercises to be held at the navy yard in Brooklyn, N. Y., on Monday, May 11, 1914, in honor of the men of the Navy and Marine Corps who lost their lives at Vera Cruz, Mexico, there shall be appointed by the Vice President 7 Members of the United States Senate and by the Speaker 15 Members of the House of Representatives.

SEC. 2. That the expenses of the committee shall be defrayed in equal parts from the contingent appropriations of the Senate and House of Representatives.

The SPEAKER. Is there objection to the present consideration of the resolution?

Mr. MANN. Reserving the right to object, will the gentleman from New York make some statement in reference to the resolution.

Mr. FITZGERALD. Mr. Speaker, on Monday morning next, May 11, the bodies of some 18 sailors and marines who were killed at Vera Cruz, Mexico, are to arrive in Brooklyn upon a United States battleship. Memorial exercises are to be held at the navy yard and, according to the statements that have appeared in the public press, the President, the Secretary of the Navy, the Admiral of the Navy and his staff, on behalf of the Government, are to be present, and the city of New York is officially to participate in these ceremonies. For that reason I offer this resolution, which provides that the Congress shall be officially represented at these ceremonies.

Mr. SABATH. May I inquire of the gentleman what the resolution provides as to the number of Representatives and Senators? I have introduced a similar resolution asking for 50 Members of the House and 15 Members of the Senate.

Mr. FITZGERALD. I have not seen the gentleman's resolution.

Mr. SABATH. I introduced it this noon, and that is the reason I made the inquiry.

Mr. FITZGERALD. This resolution provides for 7 Members of the Senate and 15 Members of the House. My recollection is that usually the representation of the House is larger than the representation of the Senate, but the Senate can fix its representation as it sees fit.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was considered and agreed to.

IRRIGATION OF ARID LANDS.

Mr. CONNELLY of Kansas. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of irrigation of arid lands.

The SPEAKER. The gentleman from Kansas asks unanimous consent to extend his remarks in the RECORD on the subject of arid lands. Is there objection?

There was no objection.

CHANGE OF REFERENCE.

The SPEAKER. The bill (H. R. 9628) to refund to the corporate authorities of Frederick City, Md., the sum of $200,000, exacted of them by the Confederate Army under Gen. Jubal Early, July 9, 1864, under penalty of burning said city, was by mistake referred to the Union Calendar. It should be on the Private Calendar. Without objection, the correction will be made.

There was no objection.

LAWS RELATING TO THE JUDICIARY.

The SPEAKER. The unfinished business is the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary.

Mr. MURDOCK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURDOCK. If under the rules a Member should make a motion to dispense with Calendar Wednesday, and that motion should carry, what would be before the House?

The SPEAKER. The naval appropriation bill.

Mr. MURDOCK. There would be no chance to get to either one of the calendars?

The SPEAKER. To answer the gentleman further, of course you could not get the naval appropriation bill up without a vote of the House. If that was voted down, then the ordinary business would be before the House.

Mr. MURDOCK. Which would be the call of committees.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. If there was a privileged bill on the calendar, that would be in order.

The SPEAKER. Of course, and as a matter of fact, there are two appropriation bills on the calendar.

Mr. MURDOCK. But they would have to be called up, and if they were not called up the Speaker would order a call of committees.

Mr. MANN. Nothing else is privileged.

The SPEAKER. There might be some other privileged matter. Under the rule the House automatically resolves itself into Committee of the Whole House on the state of the Union.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. RUSSELL in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of a bill of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary.

Mr. WATKINS. Mr. Chairman, on last Wednesday section 13 was temporarily passed so as to allow some information to be obtained. I now ask that that section be read.

The Clerk read as follows:

SEC. 13. In all States and Territories where there are reservations or allotted Indians the United States district attorney shall represent them in all suits at law and in equity.

Mr. WATKINS. For the purpose of getting the matter properly before the House I will move to strike out the last word and ask the Clerk to read the communication from the Commissioner of Indian Affairs, which I send to the desk.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 5, 1914.

Hon. JOHN T. WATKINS,
Chairman Committee on Revision of Laws,
House of Representatives.

MY DEAR MR. WATKINS: I have your letter of April 30, wherein you ask for information as to the provision in the act of March 3, 1893 (27 Stat. L., 631), whereby United States attorneys are called upon to represent Indians in suits at law and equity, and which provision is section 13 of H. R. 15578, a bill to codify, revise, and amend the laws relating to the judiciary.

This provision of law is important and necessary, and should not be stricken from the bill under consideration by your committee.

Not many of the Indians, considering the entire population, are in a position to employ counsel to represent them in legal proceedings. There are but few tribal attorneys, and it is doubtful whether it might be considered a part of their duties to represent the Indians. This section of law therefor affords, in many instances, the only means of procuring counsel for the Indians in order to prosecute or defend their rights, and is a necessity of which they should not be deprived.

I earnestly recommend that the item be left in the bill.

Very truly, yours,

CATO SELLS, *Commissioner.*

Mr. STEPHENS of Texas. Mr. Chairman, in the State of Oklahoma each of the Five Civilized Tribes have employed an attorney at a stipulated price, who attends to all the business of these Indians as tribes and as allotted individuals. What I desire to ask the gentleman is whether or not the authorization of the United States attorneys under this section 13 would in any way repeal the law regulating the duties of these employed attorneys by the tribes?

Mr. WATKINS. From the communication which I have had read from the Commissioner of Indian Affairs I do not think so. They are familiar with the facts in the matter, and they say the section should be left in for the protection of the Indians, and that it would in no way conflict with any other law.

Mr. STEPHENS of Texas. I think it necessary that they should be represented by competent counsel. There are no Indians that have employed attorneys except the Five Civilized Tribes.

Mr. GREEN of Iowa. This section in the bill is the present law?

Mr. STEPHENS of Texas. Mr. Chairman, I asked the question in order to know what would be the result if there was a conflict between the two authorities. I suppose they will settle that among themselves. I think the law is a good one. I have no objection to it.

Mr. WATKINS. Mr. Chairman, I withdraw the pro forma amendment.

Mr. STAFFORD. I think some action ought to be taken on section 13.

The CHAIRMAN. The gentleman can make a motion to strike the section out if he desires.

Mr. WATKINS. Mr. Chairman, it was simply passed over for further consideration.

Mr. STAFFORD. With no motion pending?

Mr. WATKINS. No.

Mr. STAFFORD. Did the gentleman ask to return to that section?

Mr. WATKINS. Yes; on last Wednesday I asked to postpone consideration of that section until to-day, and this morning the section has been reread, and a communication from the Commissioner of Indian Affairs has been read to show that it is necessary to remain in the statute.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 36. Every clerk of a district court or circuit court of appeals, before entering upon the duties of his office, shall give bond to the United States in a sum not less than five thousand and not more than forty thousand dollars, to be determined by the Attorney General, with sufficient sureties, to be approved by the court for which he is appointed, faithfully to discharge the duties of his office, and to lawfully account for, pay over, and disburse all moneys received by him as clerk;

and seasonably to record the decrees, judgments, and determinations of the court for which he is clerk. Whenever the business of the courts in any judicial district shall make it necessary in the opinion of the Attorney General for the clerk to furnish greater security than the official bond theretofore given, a bond in a sum not to exceed $40,000 shall be given when required by the Attorney General, who shall fix the amount thereof. It shall be the duty of the district attorneys, upon requirement by the Attorney General, to give 30 days' notice of motion in their several courts that new bonds, in accordance with the terms of this section, are required to be executed; and upon failure of any clerk to execute such new bonds his office shall be deemed vacant. All bonds given by the clerks shall, after approval, be recorded in their respective offices, and copies thereof from the records, certified by the clerks respectively, under seal of court, shall be competent evidence in any court. The original bonds shall be filed in the Department of Justice.

Mr. WATKINS. Mr. Chairman, I offer the following committee amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 15, line 9, after the word "appeals," insert the words "including the clerks of the district courts for Hawaii and Porto Rico."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. STAFFORD. Mr. Chairman, I should like to inquire of the chairman of the committee whether there is any necessity for extending the provision to include the district courts of the Territory of Alaska?

Mr. WATKINS. Mr. Chairman, in the organic act of Alaska that is provided for and it is not necessary.

Mr. STAFFORD. Does not the gentleman think there should be some provision incorporated in the codification?

Mr. WATKINS. No; that will be attended to when we reach that in its regular order, if we ever succeed in doing so.

Mr. STAFFORD. If the chairman is to give consideration to that later, I do not want to press it.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WATKINS. Mr. Chairman, I have another committee amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 15, line 14, after the word "office," strike out the words "and to lawfully account for, pay over, and disburse all moneys received by him as clerk" and insert in lieu thereof the following: "And to lawfully account for all moneys received or earned by him as clerk."

Mr. WATKINS. Mr. Chairman, the object of the amendment is simply to compel the clerk to account for the money earned by him as well as fees received by him.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. Yes.

Mr. STAFFORD. I understand that under the existing practice the clerks are entitled to collect certain prescribed fees, and then if the fees are in excess of the salary for that office he is obliged to turn the excess amount over to the Government. Would not this provision compel him to turn all of the fees over, regardless of whether they are a part of his salary or not?

Mr. WATKINS. Yes; it would require him to account for them, but not to absolutely turn them over.

Mr. STAFFORD. I understood the amendment proposed by the gentleman was to account for and pay over all moneys received and earned?

Mr. WATKINS. Mr. Chairman, I will state to the gentleman the status. Further on in the bill the gentleman will find that the clerks are placed on a salary basis. They are required to charge certain fees of office. Those fees of office are accounted for and paid over, but while they are paid over, if there is an excess over the amount of the salary which is designated in the bill, which is $5,000, that excess goes into the Treasury. If it does not reach more than that amount, then the clerk in effect retains the fees, but the fees must be accounted for and paid over. In other words, the clerks are to be paid salaries, but at the same time they account for and pay over the fees of office.

Mr. STAFFORD. At the present time, as I understand it, all the clerks are on a fee basis.

Mr. WATKINS. Yes; they charge fees and collect those fees, and by the provisions of this bill if the fees aggregate more than $5,000, then the fees are turned over into the Treasury, and if they do not amount to more than $5,000, the salary of the clerk is paid out of the fees.

Mr. STAFFORD. The salary of all clerks at the present time is not in excess of $5,000, provided the fees equal that amount?

Mr. WATKINS. That is correct, so far as this bill provides.

Mr. STAFFORD. And it is proposed in a subsequent provision in this bill to change that system and prescribe definite salaries for the clerks?

Mr. WATKINS. That is, they are placed on a salary basis, and the reason for that is this: There were clerks of the district court and clerks of the circuit court, and those clerks are now doing only the work of the district court, because the circuit courts have been abolished. In effect, they have double the work that they used to have. They used to get $3,500 and fees.

Mr. STAFFORD. The provisions which the committee have incorporated in the bill prescribe stated salaries for the clerks. Has the gentleman followed the bill recommended by the Committee on the Judiciary, which is now upon the calendar, prescribing the salaries of clerks?

Mr. WATKINS. No. That bill has not yet become a law. We did not feel authorized to incorporate that because of the fact that the commission which was authorized to do that class of work had not passed upon it. Wherever the commission, authorized to embody in their revision new laws, and they recommend it, we incorporate that new law, but unless the law had actually been passed by Congress we did not feel authorized to insert any new law.

Mr. STAFFORD. Did the committee incorporate in this instance and in the other instances the recommendations of the commission without passing upon the merits of the proposition?

Mr. WATKINS. I might say that largely we did.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. STAFFORD. Mr. Chairman, I ask that his time be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WATKINS. Mr. Chairman, I will say that there are several instances in which I, as chairman of the committee, and members of the committee would have slightly changed the phraseology, and in some instances we might possibly have changed the substance, if it had not been for the fact that we were afraid of causing a confusion and a conflict with the decisions already rendered and bringing about an entanglement. For that reason we were so cautious as to go substantially by the recommendations of the commission until we came to a law that had been repealed or amended. When that had been done, we felt compelled under our duties to leave out the law repealed and put the language of the new law in the bill.

Mr. STAFFORD. Now, as I recall—perhaps my memory is at fault—when the joint committee, of which Judge MOON was chairman, had charge of this judiciary title in the Sixty-first Congress, it was stated that they did not necessarily follow the recommendations of the commission, but that in many instances they departed from the recommendations and failed to incorporate their recommendations in their report. Am I correct or not in that position?

Mr. WATKINS. I will state to the gentleman that being a member of the Committee on the Revision of the Laws at that time, and having passed upon that bill, I can state correctly that almost entirely the report of the commission was adopted. There may have been some few instances where the phraseology was slightly changed or an instance or two where the idea of the commission might have been changed, but they were rather the exceptions if at all. I believe I understand what the gentleman is referring to, and that was the abolition of the circuit courts; but that was the recommendation of the commission, if that is what the gentleman had in mind.

Mr. STAFFORD. It was not only limited to that instance throughout that large bill, but the committee departed from the recommendations of the permanent codification commission.

Mr. WATKINS. I just received on yesterday a letter from Hon. W. D. Bynum, a member of that commission, in which he calls my attention to the fact that the proposition by the gentleman is not correct, but that in fact, substantially to all intents and purposes, the entire codification as recommended by the commission was enacted in the bill known as the judiciary title No. 1.

Mr. STAFFORD. Now, that brings up the question which was before the committee last week, as to the inability of the committee to obtain the very valuable notes and work compiled by the joint committee, which, upon the death of Senator Heyburn, were transferred to the Secretary of the Senate for safe keeping. As I recall, the gentleman said he made a request upon the Secretary or some person connected with the Senate for the use of these papers and that they were refused. I am authoritatively informed—and I am considerably interested in this, as all members of the committee are, because we know that the attorney assigned by the Department of Justice, Mr. Lott, who is still connected with the service, was a most painstaking and efficient official and performed very conscientious work in going over the report of the commission——

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that the gentleman's time may be further extended for five minutes.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that the time of the gentleman from Louisiana may be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. STAFFORD. And that that data is now available for the committee, if they desire it—that the Secretary of the Senate replied to the gentleman when he received the chairman's request that it was only necessary to have some order of the Senate, so that the Senate might be able to have this data now in their possession returned whenever it was necessary, and that the Secretary of the Senate, in his letter to the gentleman, requested him to call upon him and arrange for an interview with some Senator who was a member of this joint committee, whereby some arrangement could be made, and that thereafter he received no reply whatsoever from the gentleman, the chairman of the committee.

Mr. WATKINS. Now, in reply, I wish to state, to begin with, that Judge Lott was a most valuable employee to the Joint Committee on Revision of the Laws of the House and Senate, as well as a member of the former commission, the labors of which ceased in 1906, and that Mr. Bynum was also a very valuable member of that commission to codify and revise the laws.

Mr. STAFFORD. He was a member of the commission?

Mr. WATKINS. He was a member of the commission, a very able man, a very efficient man from my experience in doing this work, and I have been in communication with both of them. More than that, I have been in communication with the brother of Senator Heyburn, who was also employed as a special employee by the Joint Committee on the Revision of the Laws, and have had assistance for a part of the time of Judge Lott during the arrangement of this bill, preparing the bill for the House, and I was assured that there would be no trouble at all; and following the suggestion of each and every one of them that there would be no trouble at all in having the papers which went in the report of the Senate placed in the hands of the committee which was doing the actual work of codification, I have no complaint to make of the Secretary of the Senate as to the course he took. I do not intend to reflect upon him at all. We were advised as to the location of these papers, and I addressed, with all respect and deference, this communication, and when it was received it had such conditions and such requirements connected with it I did not feel like it was necessary, that with the assistance which the committee had and in the progress we were making with it and with the benefits which we were deriving from the work which we had before us of the commission, the volume containing the work of the commission, we did not consider it necessary that we should comply with the conditions as a prerequisite that were put upon us by the Secretary of the Senate.

Mr. STAFFORD. As I understand the situation, the Secretary of the Senate only stated that at that time he could not deliver over this valuable data, but that he requested an interview with the gentleman so as to have an order of the Senate passed whereby these documents could be transferred to the committee—to my mind a very reasonable request—and that no notice whatsoever was taken by the gentleman or his committee to that request; and the reason for making the request for an interview was this, that Senator SUTHERLAND, who was formerly a member of that joint committee, believed that this joint committee would probably be re-created; and if it is the Senate will have need again of this valuable compilation.

Now, for one I recognize that this data as compiled by Mr. Lott would be of valuable service to the committee, and as this bill is likely to consume all the Calendar Wednesdays from now until the end of the session, and as the committee could have the use of that between Wednesdays to go over, I can see where the committee could obtain most valuable information for the use of the House if the gentleman would but apply to the Secretary for those documents.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WATKINS. Mr. Chairman, I would like to have just two or three minutes to answer that last question.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for three minutes.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that the gentleman from Louisiana may proceed for three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. WATKINS. I will state to the gentleman that while the requirements of the Clerk do not on their face appear unreasonable, it was not, on account of the controversy which had arisen with reference to the re-creation of this joint committee, deemed advisable by the chairman of the Committee on Revision of the Laws to comply with the requirements and stipulations made by the Secretary of the Senate. It is not necessary to go into detail to explain why this joint committee has not been re-created. But there are reasons which are supposed by some to be sufficient reasons. It may be that it is best that the joint committee should not be appointed. I do not know. That is in controversy. But, so far as the chairman of the Committee on Revision of the Laws is concerned, the bill has been introduced by the chairman as an individual Member of the House, to ask for the appointment of this joint committee, and that has laid in the committee room without any action on it at all.

Mr. STAFFORD. The gentleman will agree that this work on which Mr. Lott was engaged for so many years, and which is now in possession of the Senate, would be a valuable aid to his committee in passing upon these sections, because it represents the work of Mr. Lott, who was employed for years and years by the commission and later by the joint committee.

Mr. WATKINS. I suppose it would; but we did not know of the location of it until we had nearly finished the bill.

Mr. STAFFORD. Until about March of this year?

Mr. WATKINS. Along about there.

Mr. GREEN of Iowa. Mr. Chairman, I ask that the amendment be again reported. I could not hear it distinctly before.

The CHAIRMAN. Without objection, the amendment will be again read.

The amendment was again reported.

Mr. GREEN of Iowa. Mr. Chairman, I do not understand the necessity for this amendment. I do not wish to be captious, but it seems to me that the language as it stands now is superior to that which is proposed by the amendment. A clerk can not account for moneys that he does not receive, and I fail to see the object of this provision.

Mr. WATKINS. Will the gentleman permit an interruption?

Mr. GREEN of Iowa. Certainly.

Mr. WATKINS. I will say to him that the clerk simply accounts for moneys. He is not required to pay over any money which he does not receive, but he simply accounts for it, because he charges up every item in his fee bill when he does the work, and the Government is to get the benefit of it, and the officials of the Government must know to whom to look to make collection of the amount.

Mr. GREEN of Iowa. I fear the gentleman has not correctly taken the definition of the word "account." In my opinion it does not include such action as is referred to by the chairman. I think that a man can not account for funds which he has not received.

Mr. WATKINS. You will see the words "pay over" were left out of the amendment.

Mr. GREEN of Iowa. It is true the words "pay over" are left out of the amendment, but that does not help the situation. All of this language, in my judgment, could be left out of the bill without any injury, because if a clerk correctly discharges the duties of his office as is provided by the language preceding——

Mr. BARTLETT. May I suggest to the gentleman that certainly the word "disburse" ought not to be left out of the bill, because the clerk is the register of the court, and he holds the money that is deposited with the register of the court, and he disburses it, and only disburses it upon certain orders of the judge? He deposits it in the bank and pays it over to those entitled to it. I think the word "disburse" should be left in the bill.

Mr. GREEN of Iowa. But that is left out by the amendment, as I understand.

Mr. BARTLETT. That is left out. And the words "pay over" ought to be left in, because he has to account for and pay over the amount that is received for salaries. If the fees in the office exceed the amount paid for salaries, he has to pay that over to the United States and account for it.

Mr. GREEN of Iowa. I will say that if any of these words appear in the bill, this word "disburse" ought to be there also.

Mr. BARTLETT. I think so, too.

Mr. GREEN of Iowa. I think the amendment as now proposed——

Mr. MANN. Will the gentleman from Iowa [Mr. GREEN] yield for a question?

Mr. GREEN of Iowa. With pleasure.

Mr. MANN. As I understand the amendment, it only requires the clerk to account for the fees received or earned. It does not require him, as the present bill reads, to pay over the money. So would it not be the case that fees earned, but not received, the clerk would account for by so stating?

Mr. GREEN of Iowa. That would be true only, I think, as to fees which have been actually received. I am at a loss to understand how a man can account for money he has never received.

Mr. MANN. This does not say "moneys." This says "fees earned." He can account for fees earned as earned, but not collected, as it seems to me, under that amendment.

Mr. GREEN of Iowa. The original provision was "moneys earned." I have forgotten the exact provision in the amendment.

Mr. MANN. No; this provision is to lawfully account for and pay over and disburse all moneys received by him as clerk. I do not know that the word "moneys" would make any difference. This provision requires him to pay over.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. GREEN] has expired.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent to proceed for three minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. Now, under the amendment he is not required to pay over moneys that he has earned but not collected, but to account for them. In other words, he has to account for all the fees earned. He may account for them as being part not collected. If he collects them, then he must account for the disposition of the money. I am using positive language, but I am asking for the gentleman's judgment more than expressing a judgment of my own.

Mr. GREEN of Iowa. I am inclined to think the gentleman from Illinois is correct as to the words "pay over," which ought to go out of the bill in any event, because the clerk receives certain money which he may not be required to pay over. But the clerk also earns money that he never receives, and, therefore, in my judgment, is under no obligation to account for it other than to make the necessary record in his books, which he would do if he discharged the duties of his office faithfully.

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WATKINS. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Louisiana.

The Clerk read as follows:

Page 15, line 22, strike out the word "forty" and insert the words "one hundred."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 37. In case of a breach of the condition of a bond of a clerk of a circuit court of appeals or district court, the United States or any person thereby injured may institute suit on said bond, and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue in due form. If individual suing fails to recover in the suit, judgment shall be rendered and execution may issue against him for costs in favor of the defendant; and in case the United States shall fail to recover, costs of the suit shall be borne by the Government.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Georgia moves to strike out the last word.

Mr. BARTLETT. This is a new law. Why is it necessary, I will ask the gentleman from Louisiana, to provide, if the party fails to recover his suit, judgment shall be rendered and issued for costs? Is not that the law now?

Mr. WATKINS. That is with reference to some of the other officials.

Mr. BARTLETT. It is so in all cases except in equity cases.

Mr. WATKINS. We wanted it to apply to all.

Mr. BARTLETT. In every case except equity cases, I understand, that is the practice in the courts of the United States. In a common-law suit, where the party is cast in the suit, judgment for costs follows, unless it be in certain classes of suits where the plaintiff does not recover as much damages as costs, in which event the plaintiff recovers only so much costs as damage. I do not see why it is necessary that in a common-law suit you should say that in case the Government fails to recover, the cost shall be assessed against the Government, as in a case where an individual fails to recover. A chancery judge can in an equity case apportion the costs among the parties according to what he may deem proper and equitable. In a common-law suit it follows, as a matter of course, that the costs follow the verdict and the judgment. I do not see any necessity for this, and I therefore ask why.

Mr. WATKINS. The other officials have this provision applying to them. This is simply made to cover the clerk also.

Mr. GREEN of Iowa. Mr. Chairman, I would like to ask the chairman of the committee a question, whether in line 14, before the word "individual," on page 16, the article "the" is not stricken out?

Mr. MANN. That word "individual" should be stricken out and the words "such party" inserted there.

Mr. GREEN of Iowa. I agree with the gentleman. Mr. Chairman, I move to amend by striking out the word "individual" in line 14 and in lieu thereof inserting the words "such party," in accordance with the suggestion of the gentleman from Illinois [Mr. MANN].

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 16, line 14, by striking out the word "individual" and inserting in lieu thereof the words "such party."

Mr. GREEN of Iowa. Yes. Strike out the word "individual."

Mr. BARTLETT. That might not do, because that might refer either to the Government or the individual.

Mr. MANN. It is identically the language used in section 24. It is the same thing.

Mr. GREEN of Iowa. The word "individual" is not proper there, because it might be a corporation or a firm.

Mr. BARTLETT. I recognize that. Mr. Chairman, I move to strike out all of that paragraph after the word "form," in line 14 of page 16, down to the word "Government," because, it seems to me——

Mr. MANN. If the gentleman will permit, this language in section 37, as to the clerks' bonds, should be the same as it is in section 24 as to marshals' bonds, and, with the change suggested by the gentleman from Iowa [Mr. GREEN], it is identically the same. The other is old law.

Mr. BARTLETT. It may be old law. I will accept the suggestion of the gentleman from Illinois. It occurs to me that lawyers in enacting statutes ought to know the law as it has been ever since the judiciary act of 1789 was passed, and that the party cast in a suit pays the costs in the case.

Mr. MANN. When you provide in the same law for suits on marshals' bonds and on clerks' bonds it should be the same. The other change has already been made.

Mr. BARTLETT. All right. Mr. Chairman, I will withdraw my proposed amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Iowa [Mr. GREEN].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 38. The said bond shall remain, after any judgment rendered thereon, as a security for the benefit of the United States or any person injured by breach of the condition of the same, until the whole penalty has been recovered; and the proceedings shall always be as directed in the preceding section.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Georgia moves to strike out the last word.

Mr. BARTLETT. I would like to ask the gentleman from Louisiana if that is put in here as new law?

Mr. MANN. I will say to the gentleman that that is the identical language in section 25 as to marshals.

Mr. BARTLETT. I understand the report on this bill proposes to say that the existing law is printed in roman and amendments are printed in italics.

Mr. MANN. I do not think this provision has been in as to clerks' bonds. They are trying to make it uniform as to clerks' bonds, the same as with respect to marshals' bonds.

Mr. BARTLETT. I understand; but I again repeat, Mr. Chairman, that we are simply saying something as new that is a hundred years old. We all know it is as old as the law and as the bond itself.

Mr. MANN. That is true. I suppose it is done more as a matter of convenience than anything else.

Mr. BARTLETT. We are simply writing into the statute what has been the common law in the country and what has been the practice of the courts for over 100 years in this country and for 200 years in England.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn. The Clerk will read.

The Clerk read as follows:

SEC. 40. Every clerk of a district court shall, within 30 days after the adjournment of each term thereof, forward to the Solicitor of the Treasury a list of all judgments and decrees, to which the United

States is a party, which have been entered in said court during such term, showing the amount adjudged or decreed in each case for or against the United States, and the term to which execution thereon will be returnable. He shall also at the close of each quarter, or within 10 days thereafter, report to the Commissioner of Internal Revenue all moneys paid into court on account of cases arising under the internal-revenue laws, as well as all moneys paid on suits on bonds of collectors of internal revenue. The report shall show the name and nature of each case, the date of payment into court, the amount paid on account of debt, tax, or penalty, and also the amount on account of costs. If such money, or any portion thereof, has been paid by the clerk to any internal-revenue officer or other person, the report shall show to whom each of such payments was made; and if to an internal-revenue officer, it shall be accompanied by the receipt of such officer.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois moves to strike out the last word.

Mr. MANN. I would like, if I may, to get a little more accurate understanding of what the italics mean in this bill and as to part 2 of the report of the committee. In this section, line 12, there are inserted in italics the words "is a party," and on page 39 of part 2 of the report of the committee is given what purports to be the existing law that is covered by section 40. But that does not begin to cover what is in this section. It may be that that is an error in part 2 in not containing section 797 of the Revised Statutes, which I have not examined. What I read may be in the existing law:

Every clerk of a district court shall, within 30 days after the adjournment of each term thereof, forward to the Solicitor of the Treasury a list of all judgments and decrees to which the United States is a party—

And so forth. I do not find that language under the head of section 40 as existing law in part 2 of the report. Now, is that the existing law, and inadvertently omitted from part 2 of the report?

Mr. WATKINS. It is inadvertently omitted. I do not know whether it was done at the Printing Office, or where.

Mr. MANN. I am not criticizing it or seeking to embarrass the committee in any way. I simply want to fix definitely in my mind what the italics mean. When you insert the italics "either party," I want to know whether that is or is not the existing law.

Mr. WATKINS. That was through an oversight at the Printing Office, or at some other place.

Mr. MANN. That might easily happen. I have no criticism to make of an oversight of that sort.

Mr. WATKINS. I will say to the gentleman, however, that the words "either party" are new words, which have been substituted for the words "or parties."

Mr. MANN. That is all right.

The CHAIRMAN. If there be no objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 45. If any clerk of any district court or circuit court of appeals of the United States shall willfully refuse or neglect to make any report, certificate, statement, or other document required by law to be by him made, or shall willfully refuse or neglect to forward any such report, certificate, statement, or document to the department, officer, or person to whom, by law, the same should be forwarded, the President of the United States is empowered, and it is hereby made his duty in every such case, to remove such clerk so offending from office by an order, in writing, for that purpose. Upon the presentation of such order or a copy thereof, authenticated by the Attorney General of the United States, to the judge of the court whereof such offender is clerk, such clerk shall thereupon be deemed to be out of office, and shall not exercise the functions thereof. Such district judge, in the case of the clerk of the district court, shall appoint a successor; and in the case of the clerk of a circuit court of appeals, the circuit judges shall appoint a successor. And such person so removed shall not be eligible to any appointment as clerk or deputy clerk for the period of two years next after such removal.

Mr. BARTLETT. Mr. Chairman, in line 10, page 19, it provides that—

Upon the presentation of such order or a copy thereof, authenticated by the Attorney General of the United States, to the judge of the court whereof such offender is clerk, such clerk shall thereupon be deemed to be out of office and shall not exercise the functions thereof.

Ought there not to be some provision made for something further than the mere presentation of the order to the judge? Ought there not to be some record made somewhere in the court of the receipt of the order and of the fact that the clerk has been removed?

Mr. WATKINS. It is an official order, and this is the old law.

Mr. BARTLETT. It may be the old law, and yet it may be objectionable. There ought to be some record of the removal in the court from which the clerk is removed, not simply the presentation of an order to declare the office vacant. I do not care to do anything more than simply to call attention to it.

The CHAIRMAN. If there be no objection, the pro forma amendment will be considered as withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 50. No person shall at any time be a clerk or deputy clerk of a United States court and a United States commissioner without the approval of the Attorney General; and no marshal or deputy marshal, attorney or assistant attorney of any district, jury commissioner, clerk of marshal, no bailiff, crier, juror, janitor of any Government building, nor any civil or military employee of the Government, except as in this chapter provided, and no clerk or employee of any United States justice or judge shall have, hold, or exercise the duties of United States commissioner. It shall not be lawful to appoint any of the officers named in this section receiver or receivers in any case or cases now pending or that may be hereafter brought in the courts of the United States.

Mr. BARTLETT. Mr. Chairman, in the existing law there is a provision that clerks or deputy clerks must not be related to the judge within a certain degree of affinity or consanguinity.

Mr. WATKINS. Yes.

Mr. BARTLETT. That seems to have been left out. There is a provision in the existing code that the clerk or deputy clerk shall not be related to the judge in the fourth degree of affinity or consanguinity. Here you fix the qualifications of the clerk and prescribe certain things that shall disqualify him; but if this is a revision of the law, if you leave out the prohibition with reference to relationship, why does not that repeal the existing provision?

Mr. WATKINS. This simply relates to the holding of two offices at one time by the same person. It does not refer to the qualifications as a whole. The other provision still stands. This does not repeal it at all.

Mr. BARTLETT. This says—

No person shall at any time be a clerk or deputy clerk of a United States court and a United States commissioner without the approval of the Attorney General—

and you here prescribe what a man shall not do; and one of the exceptions to the existing law is left out of the qualifications.

Mr. MANN. Mr. Chairman, I move to strike out the last word. Under section 45 you provide for the removal of a clerk. He is at once removed upon the presentation of a certain order. Then you provide that the court may appoint a clerk. When can that newly appointed clerk perform any duties as clerk?

Mr. WATKINS. Immediately after he is appointed and gives the bond which is required of all clerks and takes the oath.

Mr. MANN. Section 50 says that no man shall at any time be a clerk without the approval of the Attorney General. Now, when you remove a clerk instantly, upon the presentation of a paper to him, and the district court appoints a clerk, is it possible to get the instantaneous approval of the Attorney General for the appointment?

Mr. WATKINS. There would be no objection to inserting the words "when he is qualified under the general law"; but the law covers that when it provides how he shall be appointed and how he shall be qualified. That would apply to the clerk so appointed as well as to any other clerk.

Mr. MANN. I suppose the matter must be covered somewhere in some way, if such a clerk has ever been removed; but here you provide that the clerk instantly goes out of office. Now, the court must have some one to perform the duties of clerk. Therefore you provide that the court may appoint a clerk. Then you provide that the clerk can not act until his appointment has been approved by the Attorney General.

Mr. WATKINS. There is a provision in the statute that the deputy clerk shall perform the duties of clerk until the successor of the clerk has qualified.

Mr. MANN. That may cover it.

Mr. BARTLETT. The old law covers that.

Mr. MANN. He can not act as clerk until after his appointment has been approved by the Attorney General.

Mr. BARTLETT. That is true.

Mr. WATKINS. That is correct; but the deputy clerk goes on with the work until the new clerk is qualified.

The CHAIRMAN. If there be no objection, the pro forma amendment will be considered as withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 52. The judge of the district court of each district shall appoint a stenographer for such court, who shall hold his office during the pleasure of the judge: *Provided*, That when there are two or more judges for the same district each judge shall be entitled to appoint a stenographer for his court. Before entering upon said office he shall take and subscribe an oath well and truly to perform the duties of the same and shall file said oath with the clerk of the court.

Mr. MANN. I move to strike out the section. Is this now provided for by law in any way?

Mr. WATKINS. No; it is not.

Mr. MANN. How does it get into a codification bill?

Mr. WATKINS. It was recommended by the commission. It is placed here for the purpose of facilitating the progress of trials in the courts.

Mr. MANN. Oh, well, I do not think it will facilitate the progress of trials. Here is a proposition to have practically no one permitted to serve as stenographer in a court except the official stenographer, or some employee of the official stenographer. In a large city that is rank monopoly and ought never to be permitted. It is proposed to insert that in a codification bill. In my city, where the courts or some of them are sitting all the time, of course one stenographer can not do the work. That means that you will have an official stenographer who will have a lot of employees. That means usually that people who want correct transcripts do not want to take the transcript of the official stenographer, although they will have to pay for it.

Now, why should they be put to that burden? What is the trouble with existing conditions? It may be necessary while a court is seldom in session to have an official stenographer there and pay him a salary. We do not have to pay official stenographers salaries in these places where the courts are continuously in session, or in session much of the time, and I can see no reason why the Government should do it. How many judges are there?

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. MANN. I am trying to get some information as to why this unusual provision should appear in a codification bill.

Mr. GREEN of Iowa. There is no provision now to pay a reporter.

Mr. MANN. There is no provision in this bill for paying the salary of the reporter. Section 93 says it shall be fixed by the Attorney General.

Mr. GREEN of Iowa. It might be added also that in the rural districts the Federal courts do not sit in continuous session and the reporter would not have a great deal to do. If he was employed at any ordinary salary he would get a great deal more than his services would be worth.

Mr. MANN. Section 93 provides for a salary to be fixed by the Attorney General, payable monthly, and in addition that they may collect and receive of the party requiring a transcript the sum of 10 cents per folio for the same. Of course you could not expect a stenographer to do all the work for the salary that he would receive. There is no reason in New York City, Philadelphia, Chicago, and various other places in the country where the courts are practically in continuous session for giving a monopoly to the judge as to designate who may take down the testimony in his court. He may appoint one stenographer, but there may be a dozen employed. The stenographer will let that out, hire others, and then get a rake-off on it. That is what will be done. It will become a public scandal if this provision goes into the bill. We will be paying a stenographer a salary, and in my town the chief stenographer may be making ten or twenty thousand dollars on the side and having the work done by persons whom he employs. And this in a codification bill, too; I do not see any excuse for it.

Mr. SCOTT. Mr. Chairman, I desire to call attention to the further fact, in addition to what the gentleman from Illinois has said, that in the rural districts—and when I say "rural districts" I mean such States as Iowa, Minnesota, the Dakotas, and Nebraska—and all through the West, the Federal courts sit at numerous places in the district. They only hold court a few days at a time in one division. It is customary, and I think almost universal, for the Federal courts to use the official stenographers of the local courts. To illustrate, in my city, which is a small one, we have four official stenographers. There is never any difficulty in having one or even two of these to attend the sessions of the Federal court. That is a great convenience locally throughout the division in which the court may be sitting. It is a convenience in this way, that when attorneys desire transcripts of evidence to perfect records they can get access to the local stenographers very easily and get their work done quickly. Otherwise, if the stenographer follows the court about, they have to send off to some other division. With four or five divisions within a district you never know where the stenographer is if he is following the court about. You write for a transcript, and he is probably off in another division 50 or 60 miles away by the time you get your letter there. It requires from a week to two weeks to get the smallest transcript of these cases, whereas you can get the accommodation almost immediately where the record is kept in the place where the reporter resides and where the notes are filed. It seems to me this would be followed by great inconvenience throughout the larger parts of the country.

Mr. WATKINS. Mr. Chairman, when the gentleman from Illinois first made the motion to strike out the section he asked as to the number of district judges. From the best data I have there are 92 district judges, not including Alaska, Porto Rico, and the Hawaiian Islands. On the proposition to strike out the section, I will say that the commission has recommended that there be official court stenographers provided for, and they give this as a reason for it:

> The value of shorthand notes of testimony and other proceedings in expediting trials and insuring accuracy in bills of exception and transcripts on appeal is abundantly established in experience. It is believed to be desirable that this duty shall be performed by a sworn officer of the court, with such provisions as will secure the preservation of the notes. The laws of nearly all the States provide for court stenographers, and there are abundant considerations of convenience and economy which dictate that the laws of the United States should no longer fail to do so.

There is a vast difference between stenographers who are competent to be appointed as official stenographers of courts and a stenographer who might be called into the case in the city or hamlet, jerked up all of a sudden and placed in court to take stenographic notes of a technical nature. The trial might be full of technical features that the ordinary stenographer would not be familiar with. It is a great detriment to the work, for a green stenographer who may be able to take and transcribe notes from dictation in a law office, or a stenographer taken from a counting house who was not an expert in legal work, on account of the mistakes and errors that he would fall into. In such cases it is a great detriment to the parties litigant, and is in every way objectionable.

Now, Mr. Chairman, this is purely for the purpose of putting them on an official basis, to regulate their conduct by rules established by the court, and make them amenable to the court under those rules. I think it is proper that official stenographers should be provided for. Not only do the commissioners recommend this, but this particular provision has been gone over carefully by those who are interested in seeing that the laws are properly enforced and that only proper laws are passed, and that the official conduct of the court shall be governed as far as possible by certain rules and regulations established by order of the court. This is not a hasty conclusion which the committee has come to, but it is after due and careful deliberation that these various sections were put into this codification.

Mr. MANN. Mr. Chairman, I appreciate the fact that this committee did not insert these sections in the bill but that they came originally through the commission that was appointed.

It was not the duty of the commission to insert it, nor was the commission composed of those practical lawyers who knew about such things. It is absolutely impossible in the large cities to comply with this provision and ever get the work properly done. What can you expect of a stenographer, for instance, who is requried to make a transcript with a provision in the law that when such service is rendered on behalf of the United States, or when the judge requires such a copy to assist him in rendering a decision, the stenographer shall make no charge? I understand that is the provision of the bill. Does the gentleman so understand it?

Mr. LLOYD. On page 93 there is a provision in the bill which authorizes the payment of a salary to the stenographer.

Mr. MANN. I understand; but what are you going to do about the salary? Here is a case, we will say, where the United States is one of the parties, and the trial may proceed for three or four months. That is not such an infrequent case. Does the gentleman think that we can fix a salary under which a stenographer will furnish a transcript of the testimony to the Government for that length of time for nothing?

Mr. LLOYD. Section 93 provides that the stenographer of the district court shall receive such salary as the Attorney General shall from time to time determine. If there was such a case as that which the gentleman states and the attention of the Attorney General were called to it, he would be entitled to see to it that the individual receive proper compensation.

Mr. MANN. I do not think he would. I do not think the Attorney General can fix a salary for a particular case.

Mr. BARTLETT. He has to have the money appropriated first with which to pay it.

Mr. MANN. And he can not fix it, anyway, unless the money is appropriated. In the one case you will not get a good report, because it would take a corps of stenographers to take the testimony for three months, and you could not get the work done if they received no compensation except a salary, because that would mean they would furnish the transcript for nothing. In the case of a private individual, you will not get good official stenographic work done for him.

Mr. LLOYD. I do not know how it will work out in the city courts, but I know that in the State courts, especially in the State of Missouri, with which I am somewhat familiar, we had this very trouble, and we changed the law so as to provide that every circuit court should have its official stenographer. The circuit judge appoints a stenographer, and since that law has been in effect we have had very little trouble with transcripts and very little trouble with the stenographers. Prior to

that time in many places in the State of Missouri the courts were not able to secure good stenographers; but now the stenographer receives a salary and receives compensation, and the result is that we have competent people.

Mr. MANN. I have no objection to a provision which would authorize the court to appoint a stenographer where it is necessary to have an official stenographer to get a transcript of the testimony.

Mr. LLOYD. But we have found this in Missouri: That the wisest course was to provide for official stenographers. Then there is never any question about what the record is, because the official stenographer's record is the record. Prior to that time, not having an official stenographer, very frequently questions arose as to what the testimony was.

Mr. MANN. And the question very frequently will arise now as to what the testimony is, because you will not get competent stenographers in this way. We have some official stenographers in our town, in some of the State courts, and, for aught I know, they perform very good service; but they do not receive a salary, nor do lots of lawyers accept their services, and they keep perpetually rowing about it, as I understand.

Mr. LLOYD. Mr. Chairman, I feel very sure that under the national law it would be the same thing as under the State law. Under the State law, where the judge appoints a stenographer, he feels to some extent responsible for the character of the person that is employed, and the result is that we have the very best stenographers there are employed by the courts.

Mr. MANN. Yes; but the gentleman knows perfectly well that one stenographer can not take the testimony. We have five or six stenographers to take the proceedings of this House, which only lasts five or six hours a day.

Mr. LLOYD. But the court will be just as particular in selecting two stenographers as in selecting one.

Mr. MANN. The court can select only the chief stenographer. He has nothing to say about the subordinates who will be hired to perform the work, giving a rake-off to the chief.

Mr. LLOYD. But that chief stenographer is responsible to the court, and if the work is not properly done it may be expected that the chief stenographer will lose his place. That is what the gentleman would do and what any sensible man would do in administering the law.

Mr. MANN. You can not do it. I have had practice enough to know that this is not workable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. WATKINS) there were—ayes 10, noes 10.

Mr. MANN. Mr. Chairman, I would demand tellers if there was any way of getting them; but considering the fact that it takes 20 Members to order tellers and there are only 20 Members present, 10 voting the other way, I shall not make the demand. I am not going to make the point of no quorum, because this bill was dead when it was born.

So the amendment was rejected.

Mr. MANN. Mr. Chairman, I move to strike out the first word "shall" on page 21, line 25, and insert in lieu thereof the words "may, at his discretion."

Mr. LLOYD. Mr. Chairman, we have no objection to that amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

Mr. NORTON. Mr. Chairman, I offer the following amendment:

Line 25, page 21, strike out the words "a stenographer" and insert in lieu thereof the word "stenographers."

Mr. LLOYD. Would it not be better to add the words "or stenographers," and then if only one stenographer be needed only one will be appointed, and if he needs more than one it would give him authority to appoint more than one.

Mr. NORTON. Yes; I think it would be better wording, and I will offer that as an amendment. On page 21, line 25, after the word "stenographer," insert the words "or stenographers."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 21, line 25, after the word "stenographer," insert the words "or stenographers."

Mr. BARTLETT. Mr. Chairman, I do not think that this amendment ought to be adopted. The present provision is one which I thought ought to have been stricken out; but as long as we have got it we ought to keep it as good as we can. The present provision is that the judge of the district court of each district shall appoint a stenographer for such court, and so forth, and it also provides on the next page where there are two or more judges for the same district, each judge shall appoint a stenographer for his court. Now, there are some districts in which there are two district judges—Alabama has three judges and two districts, so we will have in one district a judge who can appoint a dozen stenographers.

Mr. NORTON. I think he should have that right.

Mr. MANN. May I ask the gentleman a question?

Mr. BARTLETT. Yes.

Mr. MANN. The gentleman knows in a good many districts the district court holds court in a number of different cities.

Mr. BARTLETT. Yes.

Mr. MANN. Now, in those cities in general there are local stenographers.

Mr. BARTLETT. Yes.

Mr. MANN. Now, we pay the expenses of the judge traveling around $10 a day in addition to his compensation, but we aim to have deputy marshals and deputy clerks in those towns. Why should not we have a local stenographer in those towns to act as stenographer for the court instead of requiring an official stenographer to travel around with the judge at probably an expense of another $10 a day?

Mr. BARTLETT. Well, I do not think we ought to have the judge to appoint one man to be the official stenographer of the court. His compensation is to be fixed by the Attorney General and the provision carried in the legislative, executive, and judicial appropriation bill provides for the money for the payment of stenographers.

Mr. NORTON. Will the gentleman yield?

Mr. BARTLETT. Yes.

Mr. NORTON. If the gentleman lived in a district where the court was held in five or six different towns——

Mr. BARTLETT. That is exactly my condition; I live in a district where the court is held in a number of towns.

Mr. NORTON. Would not the gentleman prefer to have a stenographer appointed by the court in his town who would take the testimony in the court in session in that particular town, so that if he wanted a transcript he could get it readily and promptly rather than to be obliged to search all over the district to find where the court stenographer may be at any certain time?

Mr. BARTLETT. I have had some experience in the testimony taken in certain investigations in the district, and in my State the lawyers have certain difficulties in securing transcripts in cases where these stenographers are appointed by the judge. I think myself that the judge ought not to be permitted to appoint but one of these stenographers permanently, and if the court needs another stenographer in another case or in a particular emergency, why, then, we may be able to secure them, but to have a Federal judge or any other judge to appoint all over the district an unlimited number of stenographers, without any limit, according to this amendment, does not seem to me to be proper. He is not supposed to appoint one for each town he holds court in. He may appoint a stenographer in every district, and I am not willing, as far as I am concerned, to confer that power upon the Federal judiciary.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NORTON. Mr. Chairman——

Mr. WATKINS. I did not understand whether the gentleman rose to discuss the amendment.

Mr. NORTON. To discuss the amendment.

Mr. WATKINS. Then I will wait until the gentleman has finished, as I would like to be heard on the amendment.

Mr. NORTON. Mr. Chairman, I know from what experience I have had with this subject in the court practice that local stenographers to take the testimony in cases that might be tried in any certain town or city where the court may be held are much more satisfactory to the practicing attorneys than to have but one official court stenographer. As has been admitted by all in debate on this subject, no one stenographer will be able to take all the testimony in any judicial district. It will be necessary for him to secure assistance, and I see no good reason why the court should not be given authority to appoint local stenographers in different towns or cities where the court may be held. I believe this amendment should be adopted and that it will facilitate the work of the court and be most satisfactory to all practicing attorneys.

Mr. WATKINS. Mr. Chairman, when the proposition was up to strike out the entire section, the gentleman from Illinois [Mr. MANN] contended that it would give an opportunity for the judges to appoint their favorites, and it would be squandering the public money to allow a man to appoint a stenographer and pay the salary to some favorite of his, but now the question is not to appoint one, but to appoint innumerable stenographers. If it is possible to conceive the idea that a district judge, a judge of the United States court, would take advantage of the opportunity which might be afforded him to select one steno-

rapher and use that to the detriment of the Government and be extravagant in the use of that stenographer, the argument would certainly be a great deal stronger on that line if any number of stenographers were allowed to be assigned by the judge. I do not concede, for my part, that the judges would take such advantage of the opportunity which they might have to practice what is sometimes called graft, but I do consider that if this amendment as now offered, allowing judges to appoint any number of stenographers which they see proper to appoint be adopted, it will be a great injustice to the Government, it will be an extravagance, and it will not be in line with economy.

Mr. NORTON. If the gentleman will permit, if a judge can appoint more than one stenographer, the gentleman says it will not be economy to the Government. These stenographers are not paid a salary unless the salary is authorized by the Attorney General, and if they do the work in their local towns or cities, their compensation need only be 10 cents a folio under the law. Is not that correct?

Mr. WATKINS. No; the salary is to be fixed by the Attorney General; he fixes the salary——

Mr. NORTON. But under the provisions of this bill stenographers are to receive 10 cents a folio, and the stenographer's salary over and above this may be merely nominal.

Mr. WATKINS. Later on in this bill which we are considering the salary is provided for.

Mr. NORTON. I understand in section 93 of this bill provision is made for the compensation to be paid stenographers.

Mr. WATKINS. Now, Mr. Chairman, there are districts in which the judges hold courts at four, and in some instances, perhaps, five different places, and at each one of those places the judge would naturally want a stenographer, and if this bill allowed a salary to each one of those stenographers, it would be vastly more than the mileage to which reference has been made here in this argument. Instead of being in the line of economy and reform it would be a most outrageous extravagance to allow any such liberty or opportunity as this on the part of the judges to appoint an indiscriminate number of stenographers. The salary will be fixed for each stenographer, and it is not to be supposed, if a man is going to devote his time and be set apart as official stenographer, that he would be satisfied with anything less than a reasonable salary for the reservation of his time. He might be permitted to do outside work, of course. Still, he would expect to receive a reasonable salary. I hope the committee will vote down the amendment.

Mr. STAFFORD. Will the gentleman yield?

Mr. WATKINS. Certainly.

Mr. STAFFORD. I assume the stenographers receive a stated salary at the present time?

Mr. WATKINS. No; they are on a fee basis.

Mr. MANN. There are no official stenographers.

Mr. STAFFORD. I understand that there are official stenographers.

Mr. WATKINS. No; there are no official stenographers. They are stenographers of the court, but they get so much a folio.

Mr. STAFFORD. I know that in the district court of Milwaukee there is a certain woman who has been connected with that court for 40 years.

Mr. WATKINS. I suppose she is efficient.

Mr. STAFFORD. She is a most efficient stenographer, and I thought she had some direct appointment. Certainly her services have the approval of the various district judges who have served in that court.

The CHAIRMAN. The question is on the amendment.

Mr. MANN. Mr. Chairman, I would like to be heard. A few years ago we had an impeachment trial, where one of the charges that was preferred was that Judge Swayne, I think it was, had taken $10 a day for his traveling expenses, the law providing, as I recall, that he should be paid his expenses not to exceed $10 a day. And he, and, as it developed, other judges, under the custom just took the $10 per day without regard to the actual expenses which they were granted. Now, if we pay the judge $10 a day while he is traveling from one place to another and sitting and holding court at a place where he does not live, as we do, we will be paying the stenographer the same thing. That does not look like economy to me. Take North Dakota, the State from which the gentleman comes who offered the amendment, and the distances are quite long. Now, what is the idea in saying that you have to have a stenographer to travel around with the judge instead of employing a stenographer at the town where the court is held? It will not add to the expense; quite far from it. It will save the Government an expense of probably $10 a day for most of the year. And if you have 93 stenographers—of course, they will not all be traveling, because in some States the judges do not hold court in different places—it will amount to quite a tidy sum. If I could get that amount for a year, I would retire now.

Mr. TAGGART. Will the gentleman yield?

Mr. MANN. I will.

Mr. TAGGART. Would there not be considerable difficulty in finding a competent stenographer at various places?

Mr. MANN. If he does not find a competent stenographer, he would not have to appoint one there. This does not require the judge to appoint a stenographer, but to give him permission to appoint more than one stenographer in his district, so that he may appoint an efficient stenographer in those cities where he holds court, and the Attorney General will fix the salary accordingly.

Mr. TAGGART. That is true; but would it lead, now, to this kind of trouble: Here is a party who is entitled to have a stenographer paid by the Government in the trial of a case that he is in, plaintiff or defendant. That is, in a civil case. In fact, the defendant in a criminal case is entitled to a transcript of testimony, as I understand it, and that is paid for by the Government——

Mr. MANN. There is no such provision in existing law or in this bill.

Mr. TAGGART. Is not there a provision of that kind in this bill?

Mr. MANN. No.

Mr. TAGGART. But here is the point, though. Independent of who pays for it, if we had a lawsuit we would be entitled to have a competent stenographer to take that testimony.

Mr. MANN. That is true; and we never have any difficulty in getting one. But the gentleman has not reached his point yet, and I am waiting for it.

Mr. TAGGART. The point is that it will be practically impossible to secure a competent court stenographer every place that the court might sit.

Mr. MANN. I am not discussing that question. I am discussing the question of whether he shall have power, if he is going to name an official stenographer, to only name one for his district, or whether he shall have the power to name one at the different places where he holds the court, instead of requiring the official stenographer to travel around with him at the expense of the Government. Now, we would have more than one judge if it were not for the fact that we have to pay the judges practically the same salary. They would have nothing to do most of the time. But the stenographers may be employed for a week or two weeks, in the course of a year, at one time, and do not have to get a year's salary for that. Their salaries can be graded accordingly.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. WILLIS. Mr. Chairman, I desire to be heard on the amendment. I want to call the attention of the committee to what will be done if we adopt the pending amendment. This section 52 proposes to so change the law that it shall read that the judge of the district court, in his discretion, may appoint a stenographer or stenographers for such court. Now, turning to section 93, it will be observed that this same bill provides that the stenographers of the district court shall recieve such salaries as the Attorney General shall from time to time determine. Taking those two sections together, it will be seen that if you adopt this amendment, here is what you propose to do: You propose to give to one officer of the Government authority to appoint as many minor officials of this particular character as he may desire—stenographer or stenographers. He may appoint one in every township, if he wants to do so, or in every school district. It is not likely that he would appoint that many, but he has unlimited authority to appoint stenographers. You give to one officer of the Government authority to appoint as many officials as he pleases, and then you give to another officer of the Government authority to fix the salaries of those minor officials. I do not believe that is wise legislation. It abdicates the power of Congress and concentrates too much authority in the hands of executive and judicial officers.

Mr. MANN. The gentleman knows that to be the law as to clerks and deputy marshals and other officials. I do not know whether it has been abused or not. If so, I never heard of it.

Mr. WILLIS. I know that is the law, but I do not believe in adding to an unwise law. I voted for the gentleman's amendment to strike out this whole thing and leave the appointment of stenographers as it now exists.

Now I yield to the gentleman from North Dakota.

Mr. NORTON. I was going to ask whether the gentleman thought this provision would be more abused than the provision for the appointment of clerks and the designation of the salaries of the clerks?

Mr. WILLIS. Well, I do not care to enter into a comparison of abuses. It seems to me this furnishes an opportunity for abuse. As a general principle of legislation, I do not believe it is wise to give to one officer authority to appoint minor officials without limit as to number and then to give to another official of the Government the authority to fix the salaries of those minor officials. I do not believe that is wise legislation, either in State or Nation.

Mr. NORTON. The gentleman's argument, then, presumes that whenever an opportunity is allowed for a district judge or the Attorney General of the United States to make abuses under the law, they will do so?

Mr. WILLIS. I do not presume anything of that kind; but I think that when this Congress is legislating it ought not willfully and with its eyes open pass a law that invites abuse. We ought, as far as possible, to prevent abuses instead of making it convenient and easy for the officials of the Government to abuse the law. That is what you do here—that is, to let one officer appoint as many minor officials as he pleases, and then let another officer fix the salaries as he pleases. I think you are entering upon unwise legislation. I think there should be a limit fixed by law as to the number of officers and the compensation paid.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. I yield to the gentleman from Iowa.

Mr. SCOTT. Does not the gentleman think that when one officer appoints a minor official and another fixes the salary they would be a check, one upon the other?

Mr. WILLIS. I think perhaps it would not be as bad that way as it would be to have the same officer appoint and fix the salaries. The point I make is that we ought not to have either one. We ought to have the number fixed by law, and in the same way we ought to have the compensation fixed. By the method proposed it would leave the whole thing subject to executive and judicial lawmaking. We simply invite abuse. I do not say that abuses will come surely, but I do not think we should invite abuses.

Mr. GORMAN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Ohio yield to the gentleman from Illinois?

Mr. WILLIS. Certainly.

Mr. GORMAN. Does not the gentleman think we could so amend section 93 as to prevent abuse, the only abuse suggested by the gentleman, that too much may be paid out as salaries or too many people put on salaries?

Mr. WILLIS. If we adopt this amendment—which I hope we shall not do—I shall join with the gentleman in an effort to amend section 93. But "sufficient unto the day is the evil thereof."

Now, the amendment proposed is one that enlarges unduly the authority of the judge in the appointment of stenographers, and that is the amendment I am seeking to defeat. I think it ought to be defeated.

Mr. GORMAN. I will help you defeat it.

Mr. WILLIS. Good.

Mr. STAFFORD. Mr. Chairman, the question before the committee is one that resolves itself largely into one of convenience to practitioners. Under the present system, whether it has authority of law or not, the strenographers, by reason of the large fees that they are enabled to charge for transcripts of testimony, accompany the judges when they go to the respective places for holding court. Nearly every practitioner knows that stenography has advanced that far that you can find expert stenographers in every place where a court holds its session who will be expert enough to take the testimony.

There is this point that comes to my mind: That the practitioners appearing in these respective places should have their convenience considered in the transcript of testimony. Under the existing practice, when this perambulatory stenographer accompanies the court, immediately after the close of the session he or she returns to his or her headquarters. It may be difficult for an attorney to have his case made up by the transcription of the minutes because the stenographer is separated from the branch city where the court has been held for a brief session.

Now, so far as abuse of appointment by the court is concerned, every power may be abused, but certainly we have the right to trust implicitly the district judges, that they will not abuse this authority.

Now, the Attorney General's office, upon the recommendation of the district judge, has authority to appoint ad libitum assistant district attorneys to assist the district attorney, and fix their salaries up to a certain amount, and this provision has not been abused. In this section 93 there is ample safeguard provided so as to prevent abuse.

Mr. TAGGART. There is authority to allow the judge discretion to appoint more than one?

Mr. STAFFORD. Yes.

Mr. TAGGART. And if he finds one who is wholly satisfactory he can accompany him to the different places? Is that the idea?

Mr. STAFFORD. It leaves it to his discretion.

Mr. TAGGART. I am opposed to the Attorney General having the power to fix the salary of any stenographer.

Mr. STAFFORD. I will say to the gentleman that that is a matter that can come up in connection with section 93, where we provide the salaries and the fees which they are entitled to receive, and we can easily limit the salaries of the stenographers there, as may be seen, and allow them to take the fees that are customary in the case of court stenographers connected with State courts.

Mr. BOOHER. Mr. Chairman, will the gentleman allow me to ask him a question?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Missouri?

Mr. STAFFORD. Yes.

Mr. BOOHER. What objection would there be to permitting the district judge to appoint a stenographer at each place where he holds court?

Mr. STAFFORD. That is the very intention of this amendment, to give him that power, whereas under the existing phraseology he has not the authority.

Mr. BOOHER. In that event the salary should be fixed at so much per diem for the time actually spent in court, and then for the fees for the transcript?

Mr. STAFFORD. That will be considered when we reach section 93.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and the Chairman announced that the noes seemed to have it.

Mr. MADDEN. A division, Mr. Chairman.

The committee divided; and there were—ayes 19, noes 18.

Mr. MADDEN. Mr. Chairman, I think I shall make the point of no quorum.

Mr. DONOVAN. Tellers, Mr. Chairman.

The CHAIRMAN. The gentleman from Connecticut asks for tellers. Those in favor of ordering tellers will rise and stand until they are counted. [After counting.] Nine Members, not a sufficient number, and tellers are refused.

Mr. MADDEN. I make the point of no quorum, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois makes the point of no quorum. Evidently there is no quorum present. The Clerk will call the roll.

The Clerk called the name of Mr. ABERCROMBIE.

Mr. MADDEN. I withdraw the point of no quorum, Mr. Chairman.

Mr. GARRETT of Texas. I object. The roll call had commenced.

The CHAIRMAN. One name had been called. The Chair understands that after the point of no quorum has been made and the call has begun, it can not be dispensed with.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Adair	Drukker	Hulings	Montague
Anderson	Eagan	Humphreys, Miss.	Moon
Ansberry	Elder	Jacoway	Morin
Anthony	Fairchild	Jones	Moss, Ind.
Ashbrook	Ferris	Kahn	Moss, W. Va.
Austin	Fess	Keister	Mott
Baltz	Fields	Kelly, Pa.	Nelson
Barchfeld	Finley	Kennedy, Conn.	O'Hair
Bartholdt	Flood, Va.	Kent	Palmer
Beall, Tex.	Floyd, Ark.	Kettner	Patten, N. Y.
Brockson	Fordney	Kiess, Pa.	Patton, Pa.
Brodbeck	Gardner	Lafferty	Peters, Me.
Browne, Wis.	Garrett, Tenn.	Langham	Peters, Mass.
Burke, Pa.	George	Lee, Pa.	Phelan
Butler	Gerry	L'Engle	Platt
Callaway	Gittins	Lenroot	Porter
Campbell	Godwin, N. C.	Lesher	Prouty
Cantrill	Goldfogle	Lever	Rainey
Carew	Goodwin, Ark.	Levy	Reed
Carlin	Green, Iowa	Lindbergh	Reilly, Conn.
Clancy	Griffin	Lindquist	Riordan
Clark, Fla.	Gudger	Linthicum	Rothermel
Clayton	Hamill	Logue	Sabath
Coady	Hardwick	McCoy	Scully
Connolly, Iowa	Hart	McDermott	Seldomridge
Copley	Hawley	McGuire, Okla.	Sells
Covington	Hayes	McLaughlin	Shackleford
Crisp	Hobson	Mahan	Sharp
Decker	Houston	Maher	Sherley
Dershem	Howard	Martin	Slayden
Dooling	Hoxworth	Merritt	Slemp
Doughton	Hughes, Ga.	Miller	Sloan
Driscoll	Hughes, W. Va.	Mondell	Smith, N. Y.

Stanley	Townsend	Wallin	Williams
Stephens, Miss.	Treadway	Walsh	Winslow
Stevens, N. H.	Tuttle	Webb	Witherspoon
Talbott, Md.	Vare	Whaley	Woodruff
Temple	Vollmer	Whitacre	Woods

The Speaker having resumed the chair, Mr. RUSSELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary, found itself without a quorum, whereupon he caused the roll to be called, and 282 Members responded to their names, and he herewith reported the names of the absentees to the House.

The SPEAKER. A quorum having appeared, the committee will resume its sitting.

The House accordingly resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary, with Mr. RUSSELL in the chair.

Mr. WATKINS. Mr. Chairman, we renew the request for tellers.

Mr. BURNETT. Mr. Chairman, a parliamentary inquiry. What is the question upon which tellers were demanded?

The CHAIRMAN. The Clerk will report the amendment for the information of the committee.

The Clerk read as follows:

On page 21, in line 25, after the word "stenographer" insert the words "or stenographers."

The CHAIRMAN. The Chair would like to state that it is his belief that the vote on this amendment was final before the point of no quorum was made. The Chair wants to state the condition as it was at the time. The amendment was presented to the House, and the vote was taken upon the amendment viva voce, then by division, and upon the division the amendment was carried. Then tellers were called for, and there were not a sufficient number to order tellers, so that tellers were refused. Then the point of no quorum was made. The opinion of the Chair and the information which he has on the subject is that the vote upon the amendment was final, but the Chair is ready to receive further light upon that question.

Mr. BARTLETT. I think the Chair is wrong. You can not decide the proposition of a quorum being present at a time when it was not present. If I am correctly informed, as soon as tellers were refused, the point of no quorum was made. It was demonstrated by the vote upon the division that there was not a quorum present, and it developed upon the call for tellers that there was no quorum present. Therefore less than a quorum could not decide the question as to whether tellers should or should not be ordered. There being no quorum present, the House was without power even to pass upon the amendment or to refuse tellers. It could do nothing without a quorum.

The CHAIRMAN. The Chair has not passed upon the question. He has only stated his impression. Knowing that this question would come up, he asked the gentleman from Alabama [Mr. UNDERWOOD], who thinks as the Chair thinks; but the Chair wishes to decide this question correctly, and will be glad to have any light upon it.

Mr. WILLIS. Mr. Chairman, I want to submit for the consideration of the Chair the following facts which the Chair has already stated quite fully. A division was had and the Chair announced that the ayes have it.

Mr. NORTON. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. NORTON. What is before the House?

Mr. DONOVAN. A point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. The gentleman from North Dakota can not take the gentleman from Ohio off his feet by a parliamentary inquiry while the gentleman is addressing the Chair.

Mr. WILLIS. I yielded for the purpose, but finding out what the gentleman wanted, I want now to address myself to the parliamentary situation. The committee had divided and the Chair announced that the ayes had it. Thereupon a call was made for tellers. The Chair announced that tellers were refused, and immediately the point of no quorum was made by the gentleman from Illinois [Mr. MADDEN].

Mr. STAFFORD. Is the gentleman entirely accurate in his presentation of the facts? The facts are that a viva voce vote was taken, and the Chair declared that the noes had it. The gentleman from North Dakota demanded a division. A division was had, and there were 19 in favor and 18 opposed, and the Chair declared that the ayes had it, and thereupon a demand for tellers was had, but not a sufficient number arose, and the Chair declared that there was not a sufficient number. Then after the Chair declared that there was not a sufficient number the gentleman from Illinois made the point of no quorum.

Mr. WILLIS. That is substantially what I stated. As soon as the demand for tellers was made and the Chair announced that tellers were refused the point of no quorum was made. My contention is that as soon as the committee found itself without a quorum that invalidated the proceedings immediately antecedent to the time when the absence of a quorum was shown. A quorum now being present, proceedings must begin anew at the point where the last uncompleted matter was taken up, that is, where the call for tellers was made. Therefore it seems to me that the call of the gentleman from Louisiana for tellers is in order at this time.

Mr. NORTON. Mr. Chairman, the facts in this case have been stated, and what is the proper parliamentary proceeding is now the question. The facts are that a viva voce vote was taken and announced by the Chair as being carried. Then there was a call for tellers. Those in favor of tellers were asked to rise and a count was taken, and the Chair declared that the request for tellers was denied. If the question of no quorum was to be raised, it should have been raised before the Chair declared the demand for tellers was denied. If a vote in the Committee of the Whole House is ever to be final, it must be when tellers are asked for and denied by the Chair. I call for the regular order.

Mr. MADDEN. Mr. Chairman, I wish to submit to the Chair this thought: It became evident to me as a member of the committee that there was no quorum present, and the purpose of my making the point of no quorum was, in effect, to challenge the right of those having voted to pass upon the question finally. The mere fact that the point of no quorum was made is notice of that challenge. I submit to the Chair that nothing less than a quorum can act upon a question before the body if any Member present challenges the right of that number of less than a quorum to act. That challenge having been made, and the Chair having ascertained that no quorum was present, the action of the committee acting with less than a quorum is void. A quorum was afterwards developed by a roll call, and a quorum is now present, and it seems to me that the whole question must be referred back to a quorum through the quorum of the committee considering the subject matter on which the challenge was made. So I submit to the Chair that the action of the committee was not final, and can not be final, as long as the challenge is presented until at least a quorum of the committee is present and takes action. It seems to me that no one can raise the question of doubt as to the lack of the power of any number of Members present less than a quorum to take final action on any question before the House.

Mr. SISSON. Mr. Chairman, the House of Representatives, by the Constitution, as well as the Committee of the Whole House on the state of the Union, requires a quorum to be present for the transaction of business. The moment that it appears that less than a quorum is present, the action on that particular matter is vacated until you have a quorum. The precedents are uniform, so far as the question of the Constitution is concerned in the House. The same rule of construction must apply in Committee of the Whole House on the state of the Union, and the rules of the House require that there must be 100 Members present for the transaction of business.

Now, if it develops upon a demand for tellers that no quorum is present, then the fact that the Chair determines that there is no quorum present vitiates the whole proceeding, because the only way to determine whether or not the committee determines to take a vote by tellers is by a rising vote. If during that proceeding it should develop that no quorum was present, the mere fact that the Chair on a viva voce vote declared it carried does not amount to anything if it is determined upon the call for tellers that no quorum was present. That is all one contemporaneous proceeding. The gentleman has a right to demand tellers if dissatisfied with the Chair's decision on the viva voce vote, because that is the way adopted in Committee of the Whole to determine whether the Chair's decision is correct. When he appeals from the decision of the Chair he appeals and is entitled to an actual count; and being entitled to an actual count, the thing is not decided until he exhausts his remedy, and if it should develop that no quorum is present he is entitled to have a quorum, and has a right to demand whether or not the Chair's hearing was accurate in determining the question.

If that were not true, we would be in the anomalous situation of a man demanding tellers without there being anything like a quorum present, and then he would not raise the question if by the teller vote he should carry it. Suppose he had

tellers and carried it, he would not raise the question, but when he finds there is no quorum present it is his right to demand that a quorum shall be present.

Mr. LLOYD. Suppose it should occur now that tellers were refused; what would be the situation?

Mr. SISSON. If a quorum is present and tellers refused, it would be the decision of the Chair and the decision of the committee.

Mr. LLOYD. The gentleman's position is that no valid action has been taken in the case because it was developed that no quorum is present. Now he says if we should decide to raise the question of tellers and tellers were refused, then the action would be valid.

Mr. SISSON. Because a quorum has declined to grant tellers. *The committee* that has the right to act is declining to do it. Those people who acted heretofore had no authority to decline to grant tellers.

Mr. LLOYD. But that does not make valid that which is invalid; and the gentleman says that which has been done thus far is invalid, and the amendment was adopted.

Mr. SISSON. But the gentleman entirely loses sight of this fact, that a quorum of the committee can validate that which otherwise would be invalid. The very action of the majority of the committee, if there is a quorum present, taking that position settles the question.

Mr. NORTON. Mr. Chairman, will the gentleman yield?

Mr. SISSON. Yes.

Mr. NORTON. In a viva voce vote, when the question of tellers is raised, when is the action completed?

Mr. SISSON. I do not understand.

Mr. NORTON. When the vote is taken by rising vote, and tellers are demanded, when is the vote completed? Is it not completed when the Chair declares that tellers are denied, if there is not a sufficient number for tellers?

Mr. SISSON. No.

Mr. NORTON. The action is not then completed?

Mr. SISSON. Oh, because it is not then completed, if it should develop on that denial that no quorum was present. The Chairman has no right, nor has the committee any right, to bind anyone when a quorum is not present.

Mr. NORTON. If a quorum is present, is it not complete when the Chair declares that tellers are denied?

Mr. SISSON. If the committee declines to grant tellers, and a quorum is present, it is final, because the majority of a quorum has the right to act and bind the committee; but when you have no quorum present, then they have no right to bind the committee, no right to put an amendment on the bill, nor can the Chair's hearing determine that fact when as a matter of fact it is shown by actual count that no quorum is present.

Mr. NORTON. Then the gentleman admits that when a quorum is present and tellers are denied, the action is final?

Mr. SISSON. Final, because a quorum has the right to make it final.

The CHAIRMAN. The Chair is ready to rule. The gentleman from Louisiana has requested that the vote on the call for the tellers be again taken. The Chair will hold, after conferring with authorities upon the subject, that we must begin where we left off, the fact having been shown that there was no quorum present at the time the former vote was taken. The question is on ordering tellers. Those in favor of ordering tellers will rise and stand until counted. [After counting.] Twenty-six, a sufficient number, and tellers are ordered. The Chair appoints the gentleman from Louisiana, Mr. WATKINS, and the gentleman from North Dakota, Mr. NORTON, to act as tellers.

Mr. WATKINS. Mr. Chairman, before the committee divides, I ask unanimous consent that the amendment be again reported.

The CHAIRMAN. Is there objection?

There was no objection.

The Clerk again reported the amendment.

The committee again divided; and the tellers reported—ayes 15, noes 46.

So the amendment was rejected.

Mr. WILLIS. Mr. Chairman, I desire to invite the attention of the gentleman from Louisiana to this fact. The language in line 25, as I understand it, has been amended so that it reads:

The judge of the district court of each district may, at his discretion, appoint a stenographer for such court, etc.

I believe that was the amendment adopted. Is the gentleman satisfied with the language which follows on page 22, in lines 2 and 3, where it reads:

Provided, That when there are two or more judges for the same district each judge shall be entitled to appoint a stenographer for his court.

Does the gentleman think that is consistent with the other line as amended?

Mr. WATKINS. Yes; I think so.

Mr. WILLIS. It does not seem to me it is; but, if the gentleman is satisfied, I am not disposed to object to it.

Mr. GOLDFOGLE. Mr. Chairman, I would like to inquire what the situation is. As I understand it, with reference to the appointment of stenographers in a court, suppose there are three or four judges?

Mr. WATKINS. Each one has the right under that section to appoint a stenographer.

Mr. GOLDFOGLE. Without regard to the number of parts that the court holds?

Mr. LLOYD. Each judge has the right to appoint a stenographer.

The Clerk read as follows:

SEC. 53. Such stenographers shall, under the direction of the judge, attend all sessions of the court and take full stenographic notes of the testimony, and of all objections, rulings, exceptions, and other proceedings given or had thereat, except when the judge dispenses with his services in a particular cause or with respect to any portion of the proceedings therein. The stenographer shall file with the clerk forthwith the original stenographic notes taken upon a trial or hearing. He shall perform such other duties as the judge may from time to time require.

Mr. TOWNER. Mr. Chairman, I offer the following amendment which I send to the desk and ask to have read.

The Clerk read as follows:

Page 22, line 9, after the word "testimony" insert the words "and identify the record evidence in any trial, hearing, or proceeding."

Mr. TOWNER. Mr. Chairman, the object of the amendment is simply this. The language of the section is that he shall attend all sessions of the court and take full stenographic notes of the testimony, but apparently the phrase that should follow stating the things of which he should make stenographic notes was omitted. There is nothing there except the indication that he should take stenographic notes of the sessions of the court. Of course, that is not what is intended. What is meant to be reported are the trials and proceedings, and that is what is specified in my amendment. Besides, it is not only the evidence that is to be taken, but it is also necessary that he should identify the record testimony. Of course, it would not be desired, especially in cases where very voluminous record testimony was taken, that the reporter should transcribe all of the record evidence. It is only necessary that he should identify it and make it a part of the record. It seems to me that the chairman should have no objection to this amendment. I have another following it.

Mr. WATKINS. If I knew what the other was, I might not have any objection to it.

Mr. TOWNER. This stands on its own merit.

Mr. WATKINS. Standing that way alone, I do not see any particular objection to it. It may be coupled, however, with something else.

Mr. TOWNER. There is nothing that would be objectionable.

Mr. BARTLETT. I should like to have the amendment again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection, and the Clerk again reported the amendment.

Mr. TOWNER. So that it will read:

Such stenographers shall, under the direction of the judge, attend all sessions of the court and take full stenographic notes of the testimony, and identify the record evidence in any trial, hearing, or proceedings—

And so forth.

Mr. WILLIS. Does the gentleman think that comes in at the proper place, with what follows at the end of line 9?

Mr. BARTLETT. And he ought to identify the objections as well.

Mr. WILLIS. If the gentleman will read the amendment, and read what follows at the end of lines 9, 10, and 11, he will see it will not make any sense at all.

Mr. BARTLETT. It ought to identify the objections as well as the whole record.

Mr. STAFFORD. Will the gentleman yield there——

Mr. TOWNER. I confess I do not see any inconsistency.

Mr. STAFFORD. Why does not the general language found in line 10, "and other proceedings given or had thereat," cover the specific case instanced by the gentleman's amendment?

Mr. TOWNER. Well, I am inclined to think it would, except it leaves the language in lines 8 and 9 so that it does not identify the duty at all of the stenographer, "and shall take full stenographic notes, testimony, and"—and what?

Mr. STAFFORD (reading). "And shall take full stenographic notes of the testimony and"——

Mr. TOWNER. What?

Mr. STAFFORD. "Of all objections, rulings, exceptions, and other proceedings given or had thereat." We all know when an attorney presents any documentary evidence it is noted by the stenographer, and I suppose that general language covers just the case instanced by the gentleman's amendment.

Mr. TOWNER. The difficulty is this: It says, "and of all objections, rulings, and exceptions and other proceedings given or had thereat." What does "thereat" refer to? It refers, under the language as stated now, to the proceedings of the sessions of court. That is what is meant. My amendment follows the word "testimony," and it would read, "notes of the testimony in any trial, hearing, or proceeding."

Mr. STAFFORD. Does not the gentleman think that if this general language is not broad enough to comprehend the case instanced that it would be better to insert it after the word "thereat," in line 11, as suggested by the gentleman from Ohio [Mr. WILLIS]?

Mr. TOWNER. I have a further amendment in regard to that matter.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WILLIS. Mr. Chairman, I desire to be heard against the amendment unless we can have some understanding as to its meaning. I have looked at the amendment very hurriedly, but I call the attention of the gentleman to how it would read as proposed. I will read the section as it would be if the amendment were adopted:

Such stenographers shall, under the direction of the judge, attend all sessions of the court and take full stenographic notes of the testimony and identify the records of the evidence in any trial or proceeding, and of all objections, rulings, exceptions—

And so forth.

That does not convey the meaning the gentleman wants; it would not be good English. I do not desire to oppose the gentleman's amendment, but does not the gentleman think there is force in that?

Mr. TOWNER. I think the language of the whole section might be greatly improved.

Mr. WILLIS. The gentleman had better withdraw the amendment and fix it up.

Mr. TOWNER. Mr. Chairman, I desire to withdraw the amendment for the present.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to withdraw the amendment. Is there objection? [After a pause.] The Chair hears none.

Mr. TOWNER. Mr. Chairman, I desire to submit another amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 22, line 11, after the word "thereat," strike out the remainder of line 11, all of line 12, and down to and including the word "therein" in line 13, and insert in lieu thereof the following: "Upon the request of either of the parties to the litigation or the order of the court or judge."

Mr. TOWNER. Mr. Chairman, this amendment is based upon what I think to be a serious objection to the language used as reported by the committee, where direction is given for the taking of stenographic notes of the testimony and objections and rulings, that under the terms of the bill the power is given absolutely to the judge to dispense with the services of a reporter in any particular case or with respect to any portion of the proceedings therein. I can hardly think that the chairman of the committee or the committee would desire to give such power as that to the court or judge. That provision would allow the court or judge at any time merely by his order and with or without reason to deprive litigants of a complete record and thereby deprive them of their right to an appeal. This would amount to a denial of the right to a fair and impartial trial and a denial of justice. It would allow the court or judge to say that some part of the proceedings should not be reported that might be vital to the interest of some of the parties to the litigation. I can hardly think that that can be desired. Certainly it would not be safe to litigants, and for that reason I have inserted in lieu of that language that the right to have a case reported shall exist in all cases and shall be granted upon the request of either of the parties to the litigation or upon the order of the court or judge. That is, either of the parties to the litigation may ask that the matter shall be reported, or if the parties to the litigation do not desire it reported and the judge himself should desire it reported he may order that it be done. It must be evident such a provision would be very much safer for all parties concerned and work injustice to none.

Mr. STAFFORD. Will the gentleman yield?

Mr. TOWNER. Certainly.

Mr. STAFFORD. This is rather a technical criticism, but it may have some potency. The gentleman notices that the clause relating to the stenographers contains the phrase "attend all sessions of the court and take full stenographic notes," and I would inquire whether this clause would not modify the requirement of the stenographer to attend all sessions of the court, and would not the gentleman's amendment find a better place after the word "and," in line 8, so as to read:

Attend all sessions of the court and, upon the request of the parties to the proceedings, or judge, take full stenographic notes of the testimony and of all objections—

And so forth.

Mr. TOWNER. I think there would be no objection to its being inserted at that place. I certainly object—and I think it is a serious objection, a vital objection—to the provision of the bill giving the power to the court to prevent a record being made in any case. Such a power might be used—and certainly would be used—in such a way as to deprive litigants of a fair trial and of their right to an appeal. It is a dangerous power, too great and too dangerous to be granted to any person under any circumstances. I hope that the chairman and the members of the committee will accept this amendment.

Mr. GOLDFOGLE. Mr. Chairman, I ask that the amendment may be again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The amendment was again reported.

Mr. GOLDFOGLE. Mr. Chairman——

Mr. BARTLETT. There is a period after that. The words "stenographer shall file" do not follow after that sentence.

Mr. GOLDFOGLE. Mr. Chairman, I offer as a substitute that all words on line 11, beginning with the word "except," and all the words on line 12 and part of the words "proceedings therein," on line 13, be stricken out, and a period be inserted after the word "thereat," on line 11, so that there shall be stricken out the words:

Except when the judge dispenses with his services in a particular cause or with respect to any portion of the proceedings therein.

The CHAIRMAN. The Clerk will report the substitute.

The Clerk proceeded to read the substitute.

Mr. BARTLETT. A point of order, Mr. Chairman. There is already an amendment pending, offered by the gentleman from Iowa [Mr. TOWNER], to strike those words out and to substitute something, and this is a mere division.

The CHAIRMAN. Is not that all one amendment?

Mr. BARTLETT. Yes, sir; to strike out and insert.

The CHAIRMAN. The Chair understands it is one amendment. Now, this is a substitute to that. Is not that in order? The Chair thinks so.

Mr. TOWNER. This is only omitting a part of the motion to amend.

Mr. GOLDFOGLE. I think a substitute is in order to strike out the whole.

Mr. STAFFORD. Mr. Chairman, I respectfully submit the preference is always given to motions to perfect the text. This motion of the gentleman from Iowa is to strike out and insert, and that is a preferential motion to a motion to strike out, and must first be put. It does not preclude the gentleman from New York [Mr. GOLDFOGLE] offering his amendment in case the amendment of the gentleman from Iowa is refused. But at the present time it is not in order.

The CHAIRMAN. The Clerk will report both amendments.

The Clerk read as follows:

Amendment offered by Mr. TOWNER:
"Page 22, line 11, after the word 'thereat,' strike out the remainder of line 11, all of line 12, and down to and including the word 'therein,' in line 13, and insert in lieu thereof the following:
"'Upon the request of either of the parties to the litigation or the order of the court or judge.'"

Mr. BARTLETT. I call the attention of the Chair to section 449 of the Manual——

The CHAIRMAN. Now, the Clerk will read the substitute offered by the gentleman from New York [Mr. GOLDFOGLE].

The Clerk read as follows:

Substitute offered by Mr. GOLDFOGLE:
"Page 22, line 11, insert a period after the word 'thereat' and strike out the words:
"'Except when the judge dispenses with his services in a particular cause or with respect to any portion of the proceedings therein.'"

Mr. BARTLETT. Mr. Chairman, the amendment of the gentleman from Iowa [Mr. TOWNER] is to strike out the same words that the gentleman from New York offers to strike out, and to insert in their place certain substantive words and material. That must be first put before the motion to strike out the paragraph or section.

The CHAIRMAN. The amendment offered by the gentleman from New York is to strike out the same words as by the amendment offered by the gentleman from Iowa. The gentleman from Iowa asks to insert some other words to take their place, while the substitute of the gentleman from New York is to strike out and substitute nothing.

Mr. BARTLETT. That is it, exactly.

The CHAIRMAN. The Chair feels, with that understanding of the facts, that the amendment offered by the gentleman from Iowa should first be voted upon. Does the gentleman from New York [Mr. GOLDFOGLE] wish to be heard?

Mr. GOLDFOGLE. I do not desire to be heard on the point of order. I desire to be heard on the amendment offered by the gentleman from Iowa [Mr. TOWNER].

The CHAIRMAN. The gentleman from New York is recognized.

Mr. GOLDFOGLE. Mr. Chairman, I agree with the gentleman from Iowa that the power given to a judge in the bill as proposed is rather a dangerous power. It may be exercised, possibly, to the great disadvantage and detriment and injury of a party litigant. And I recall cases in the appellate courts, both in my State and in other States in the Union, in which reversals were ordered upon matter appearing in the record in both civil and criminal cases, which reversals would not and could not have taken place had the record not disclosed fairly the proceedings had upon the trial. Comments of counsel frequently form a legitimate place in the record of a trial. There are a variety of things that occur to the mind of the lawyer who has had experience in the trial of causes, which require a record of them to be made in the trial proceedings. In the case of a judge who would be inclined to be arbitrary or obstinate I can conceive that many things that ought to find place in the record would not be there because of an order of the judge to the stenographer to keep them out. Under our system of judicature, under our very liberal system that obtains in courts of justice, I am quite unwilling to allow the power to be vested in any judge to keep out of the record such matters as he may desire to keep out, but which have a proper place in the trial record. That is really the power that would be given a judge under the proposed bill.

Now, so far as the matter which the gentleman from Iowa [Mr. TOWNER] would substitute for that which he seeks to have stricken out is concerned, I am again apprehensive that if that matter were inserted it might also lead to abuse. I would like to be with the gentleman from Iowa in his amendment, but on the spur of the moment I am inclined to think that the amendment would be even too broad a power to confer.

Mr. TOWNER. Mr. Chairman, will the gentleman yield?

Mr. GOLDFOGLE. Certainly; with pleasure.

Mr. TOWNER. I will say to the gentleman from New York that I can conceive of no possible combination of circumstances that would permit any injustice being done, for this reason: As the section would stand then, it compels the reporting by the reporter of all of the trials and transactions that occur, unless the parties to the suits themselves waive it.

Mr. GOLDFOGLE. But you say "either party."

Mr. TOWNER. Yes.

Mr. GOLDFOGLE. You mean that either party might request it be left out, and then the judge could order it left out. I have not kept closely in mind the language of your amendment.

Mr. TOWNER. No, indeed; it is the other way. Either of the parties may request that this shall be done; either of the parties to the litigation may request that the report shall be made, or the judge himself may make the request that the report shall be made, so that any party who desires a full record, no matter what side he may be on, has the power to ask that there shall be a full record of the testimony taken.

Mr. GOLDFOGLE. Why should not a full record be made in every case? I want to say this to the gentleman from Iowa: I am not, of course, acquainted with the methods pursued in the courts in some of the States far distant from my State, but in my State, especially in my district—the southern district of New York—we take full record of the proceedings on the trial. We take the testimony in full; we mark the exhibits; and when the record is made up you have a perfect disclosure on it of what took place upon the trial between the court, the witnesses, and the counsel.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. TOWNER. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended for five minutes.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. TOWNER. Let me say to the gentleman from New York that there are very many transactions in the courts where neither party desires all of the evidence taken—a great many transactions, in fact, where neither party nor the judge himself considers it of sufficient importance that any of it should be taken—and that, of course, saves a lot of trouble and expense. The parties to the suit have the right to preserve their rights by asking—either of them or any of them—that the full record shall be made, so that their rights may be fully preserved, if they desire. And even if the parties themselves might not desire the evidence to be taken and preserved, if the judge, for his own protection, desired that the evidence be taken and preserved, he has the right to make the order. So that it seems to me that everything possible that is necessary to preserve justice, or the opportunity for justice, to any party is preserved in the amendment.

Mr. GOLDFOGLE. Do I understand that in the State of Iowa the record is not completely made up by the stenographer, as, for instance, the taking down of the testimony, the objections, and the exceptions, and the charge of the court to the jury?

Mr. TOWNER. Certainly, in cases where it is desired; but the gentleman will understand that there are a great many cases that are tried where this is not done and where the parties do not desire it to be done.

Mr. GOLDFOGLE. It is not so over my way.

Mr. TOWNER. Oh, I think there must be in every court a great many of those proceedings that are not necessary to be preserved.

Mr. GOLDFOGLE. I understood a little while ago that each judge was to have the right to appoint a stenographer. Now, if that means anything at all, it means that a stenographer shall attend the court, that he shall take down the proceedings of the trial, so that the evidence or transcript of his minutes may be called for, and that whether for purposes of appeal or for some other purpose, the opportunity shall be afforded to the litigants to have that transcript furnished.

Mr. TOWNER. Certainly. There is no trouble about that.

Mr. GOLDFOGLE. That being so, why should there be anything in this act which would require any party to make a request in the first instance to have the case reported in full?

Mr. TOWNER. I will say to the gentleman that from a long experience on the bench I can safely say that in more than one-half of the transactions in the court, proceedings of various kinds, ex parte and otherwise, there is no necessity whatever that the entire proceedings should be reported, and nobody requires or asks that they shall be reported.

Mr. GOLDFOGLE. I have not reference to ex parte proceedings. I have reference to trials, both civil and criminal. And I want to say to the gentleman that after a very long experience on the bench I know that over my way they take upon the trial full notes of the proceedings; so much so that the appellate court has no difficulty at all in learning from the record what has taken place upon the trial, what the judge has done, and what he has said, so that the tribunal may be enabled intelligently to pass upon the questions presented for review.

Mr. TOWNER. Certainly. That is always the case whenever there is a trial or any contest whatever.

Mr. GOLDFOGLE. Would not the gentleman think it would be just as well to leave out all the words beginning with the word "except" down to the period, instead of inserting the words that the gentleman desires to have inserted?

Mr. TOWNER. No; because that would compel the stenographic reporting of all transactions of the court.

Mr. GOLDFOGLE. The gentleman means all the ex parte proceedings, and so on?

Mr. TOWNER. Yes.

Mr. GOLDFOGLE. I do not think that any judge cares to have ex parte proceedings taken down. I have no reference to them.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Has the gentleman from New York [Mr. GOLDFOGLE] concluded his remarks?

Mr. GOLDFOGLE. I have.

The CHAIRMAN. The gentleman's time has expired.

Mr. BARTLETT. Mr. Chairman, the gentleman proposes in his amendment, which I think is a proper one, that in those cases in which the parties think that they are of sufficient importance to have the services of a stenographer, or where the court itself shall direct it, whether the parties agree or not, and the case appears to be to him of sufficient importance, he then directs the stenographer to report the case, and it is only in those cases that it is compulsory upon the stenographer to take down the testimony. Is that correct?

Mr. TOWNER. The gentleman is correct in this, either party may demand—either party to the litigation.

Mr. BARTLETT. If one party declines and the other desires it, the judge can direct him to do it?

Mr. TOWNER. Yes.

Mr. BARTLETT. And if neither party desires it, the judge on his own motion can order it?

Mr. TOWNER. Yes.

Mr. BARTLETT. So that it depends upon either the wish or the views of one party to the suit, or the judge, as to the necessity of requiring this service?

Mr. TOWNER. Yes. This would leave it in this condition, that either party or the judge could demand that it be taken, whether the other party wishes it, or the judge wishes it, or not. His demand would be sufficient to require that the evidence be taken; or, if the parties themselves do not demand it, the judge may order it, so that in any case where any party to the litigation whatever might seek or require it, the opportunity will be given to have full record made.

Mr. BARTLETT. The gentleman understands that the Supreme Court of the United States, in the new rules which they have adopted, have endeavored to abolish the old method of bringing up everything that occurs in the court. They have adopted a new rule—which I think is a good one—which requires the parties to present the facts and what transpired in the trial in a narrative form, instead of embracing questions and answers and arguments pro and con and what the court said. The records of the courts have become so voluminous by pursuing the old method which the gentleman from New York [Mr. GOLDFOGLE] has referred to, of taking down every answer and every question and every objection and argument, that the court could hardly wade through them; and the Supreme Court, in the new rules they have promulgated, have provided what we have had in Georgia for 20 years, that you can not send up the stenographic report of what occurred and the questions and answers and all in that way, but that you shall present it in as concise a narrative form as the nature of your case will permit. That is what the Supreme Court requires now.

Mr. TOWNER. That is the rule also in our courts on appeal, I will say to the gentleman, and has been for many years.

Mr. GOLDFOGLE. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from New York?

Mr. TOWNER. Yes.

Mr. GOLDFOGLE. Of course the gentleman from Georgia is right, so far as cases on appeal are concerned, because the record is made up in narrative form from the transcript of the stenographer's minutes of what occurred upon the trial.

Mr. BARTLETT. I understand.

Mr. GOLDFOGLE. Now, what I had reference to when I made my argument was that in the first instance, in the court in which the trial takes place, there should be a stenographic report of the matters that legitimately should go into the record, and the judge ought not to have the arbitrary power to say to a stenographer, "Do not take that down, and do not take this down"; so that when you come to make up your case on appeal in narrative form, lo and behold, you find many things omitted that ought fairly to be presented to the appellate court in order that it may determine whether the objections made were tenable, or whether, as in a case that is now present in my mind, a very recent case in my State, the court can say that the whole atmosphere of the trial was such that it could not be said the appealing party had a fair trial.

Mr. BARTLETT. There is no difference between the gentleman from New York and myself on that subject. I think whatever occurred in court, where the case is of sufficient importance to require the services of a stenographer, should be taken down; and if the gentleman had practiced law in the courts down where I live he would know from experience the absolute necessity for such a practice.

Mr. RUCKER. Mr. Chairman, I beg the indulgence of the committee for a few moments, in order to make a very important statement, which may involve a slight violation of the rules governing debate in the House. A long time ago, so long almost that "the memory of man runneth not to the contrary," Michael Gill filed a contest against the gentleman from Missouri [Mr. DYER]. That contest was referred to Committee on Elections No. 3. In due time the testimony was taken and filed. Arguments were heard months ago, and months ago the committee reached a final conclusion. Several days ago at least a report was prepared, as I am informed, and printed for the examination and approval of members of that committee before being formally filed in the House. I am informed that the report has been agreed to by all those who favor it, a majority, in number, of the committee, but it has not yet been filed, and the Lord only knows when it will be filed.

Let me say that there is no disposition on earth on my part to utter one word which, by any kind of implication or construction, might reflect upon or criticize any of the members of the committee; but I believe I am justified in saying that members of the committee are pleading with the chairman to file the report, which has been agreed upon, and let the House take such action thereon as in its wisdom it should take. I have no doubt the distinguished chairman of that committee, who is now present and hears what I say, has some reason for his action in this matter in failing and refusing to file the report. It may be that at some time in the dim past some other contest hung fire like this one, but it does seem to me, with all deference and respect to the distinguished gentleman, the chairman of the committee, that no good reason can be shown why, when a committee of this House has solemnly reached a conclusion, that conclusion should not be furnished in a report to the House. I want to say in behalf of the Missouri delegation that there is some anxiety about this matter; but I want to say, further, that not one of them, to my knowledge—and I believe I am correctly advised—has taken any part, certainly no objectionable part, in this contest in any wise. All we have done was quietly to await the action of a committee of this House, without seeking in any manner, shape, or form to affect its action. But the committee having acted, we now feel that we have a right to demand, or I prefer to say, we feel we have a right to respectfully request, the chairman of the committee to take that committee's report out of his pocket and file it with the Clerk of this House, where it ought to be.

I make these remarks, Mr. Chairman, in the best of good humor, confessing my superb regard for the distinguished chairman and his great ability; but I have tried to make them pointed enough and plain enough, if possible, to induce the good gentleman to tell us when the House of Representatives may have the benefit of the deliberations and judgment of his great committee.

Mr. STAFFORD. Regular order, Mr. Chairman.

Mr. GOLDFOGLE. Mr. Chairman, the gentleman from Missouri [Mr. RUCKER] was right when he said he was digressing from the legitimate line of debate on this bill. I appreciate the good nature of the gentleman from Missouri, and want to thank him for the very kind compliment that he paid to the chairman of the Committee on Elections No. 3; but I would like to say to the gentleman from Missouri that he is a little in error with regard to the facts in the case to which he referred. If this were the time to enter upon a discussion of the facts and a recital of the details, I would be better enabled to enlighten the gentleman from Missouri as to the course——

Mr. RUCKER. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Missouri?

Mr. GOLDFOGLE. In a few moments. I say I would be better enabled to enlighten the gentleman, if light were at all needed, as to the time it took to hear and determine the matters in controversy in that election case and to prepare in proper form and present to the House the committee report. However, I permit myself very briefly to call attention to the fact, not because it has a place in this debate, but so that I may in kind return my respects to the gentleman from Missouri, and to assure him that I am appreciative of his good nature. It was not until the beginning of the second session of this present Congress that in due course of practice and procedure of the House, with which, of course, the gentleman from Missouri is thoroughly familiar, the testimony in the case reached the committee. The testimony is embraced in two volumes, comprising 2,205 closely printed pages. The type in which it is printed is so small that really it has been most trying to the eye. If the record were printed in the type we are accustomed to use for appeal cases in my State, it would probably take up some 4,000 or 5,000 pages at least. In the type in which we print the hearings of committees it would likely make 7,000 or 8,000 if not more pages of print.

Mr. RUCKER. Will the gentleman yield?

Mr. GOLDFOGLE. Pardon me. I will yield to the gentleman from Missouri as soon as I complete my statement as to the record in the case. It is not before me now, but I think I have a clear recollection.

The briefs were voluminous. There was no desire on the part of the chairman of the Elections Committee, and there never will be a desire on the part of the chairman of the committee to determine any election case in any partisan spirit. I think I can speak for the committee over which I am privileged to pre-

side when I say I do not believe there was any desire on the part of members of that committee to determine the questions in any hasty or partisan way.

Mr. RUPLEY. Mr. Chairman——

Mr. RUCKER. Will the gentleman yield now?

The CHAIRMAN. Does the gentleman yield?

Mr. GOLDFOGLE. I yield to the gentleman from Missouri for a question.

Mr. RUCKER. Having decided all the questions contained in this voluminous record, why will not the chairman present the report of the committee?

Mr. GOLDFOGLE. In a moment I will tell the gentleman from Missouri, in the same spirit of good nature which he referred to me. The briefs submitted, I was about to say, were quite voluminous, the authorities cited were many, the questions that were presented were complex, and after we had gone through this record, after we had heard a motion to take further testimony, and after we concluded upon what we would do, the report was drawn. It was sent as a matter of courtesy to the different gentlemen of the committee before it was to be filed, so that if anything was to go in, or anything had been omitted by error, it might be corrected, and all questions avoided as to matter, form, or substance. I told some gentlemen, not that I need state it now, but the gentleman from Missouri is so extremely good-natured I can not resist telling him, that the chairman of the Committee on Elections No. 3 will, within a very short time, submit the report for the action of the House in the manner in which reports have usually been submitted, according to my experience and what I believe to be the practice of the House.

Mr. RUCKER. Mr. Chairman, the gentleman from New York having told me that the good-natured chairman will in a very, very short time make his report, and having taken so long a time——

Mr. GOLDFOGLE. Oh, the gentleman is in error; he did not take a long time. I am afraid my friend, who has had a long experience in the House and is a distinguished and able Member, has forgotten the course that these elections cases generally run. I know the gentleman has been very busy with the business of the House, that he has his hands full of matters in his own committee, and I know how ably he presides, and I know that the gentleman would not want to rush headlong into anything.

Mr. RUCKER. This case was settled long and long ago.

Mr. RUPLEY. Will the gentleman yield?

Mr. GOLDFOGLE. For a question.

Mr. RUPLEY. I am a member of the Elections Committee No. 3.

Mr. GOLDFOGLE. I trust the gentleman from Pennsylvania will recognize the fact that in this Committee of the Whole is not the place where the internal matters of the committee are to be discussed.

Mr. RUPLEY. I trust the gentleman from New York will recognize the fact that this is the place and the forum.

Mr. GOLDFOGLE. To pass upon the report of the committee?

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. RUCKER. Mr. Chairman, I ask that the time of the gentleman be extended three minutes.

The CHAIRMAN. The gentleman from Missouri asks that the time of the gentleman from New York be extended three minutes. Is there objection?

Mr. STAFFORD. I object.

Mr. RUPLEY. Mr. Chairman, I desire to address the Chair in my own right.

The CHAIRMAN. The gentleman from Pennsylvania.

Mr. RUPLEY. Mr. Chairman, I desire to interrogate the chairman of the Committee on Elections No. 3.

Mr. GOLDFOGLE. I raise a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. GOLDFOGLE. The matter on which the gentleman desires to interrogate the gentleman from New York has no place now, while we are under the five-minute rule upon a revision of the laws in the Committee of the Whole House on the state of the Union.

Mr. RUCKER. A parliamentary inquiry.

The CHAIRMAN. A point of order is now before the House. The gentleman from Pennsylvania has the floor, and the gentleman from Missouri can not take him off his feet by a parliamentary inquiry.

Mr. RUPLEY. Mr. Chairman, I have listened to the discussion between the distinguished gentleman from Missouri [Mr. RUCKER] and the chairman of Elections Committee No. 3, the gentleman from New York, on the contest pending in this election between Michael J. Gill and Congressman Dyer. As a member of that committee I have insisted——

Mr. GOLDFOGLE. Mr. Chairman, I raise a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. GOLDFOGLE. I raise the point of order that the matter to which the gentleman has reference is not germane to the bill now under consideration.

The CHAIRMAN. The point of order is well taken.

Mr. RUCKER. Will the gentleman from Pennsylvania yield?

Mr. RUPLEY. Yes.

Mr. RUCKER. Mr. Chairman, is it in order to move to suspend the rules long enough for the gentleman from Pennsylvania to ask the gentleman from New York one question?

The CHAIRMAN. The gentleman can not move to suspend the rules in Committee of the Whole.

Mr. RUCKER. I was not sure that it could be done, but I wished to find out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

Mr. TOWNER. Mr. Chairman, a suggestion was made by the gentleman from Wisconsin [Mr. STAFFORD] that perhaps the better place for the insertion of this amendment would be in line 8 instead of where the language is stricken out in line 11. I think that that is true, and with the consent of the committee I will change my amendment so that the insertion shall follow the word "and" in line 8. So that part of the section will read as follows:

Such stenographers shall, under the direction of the judge, attend all sessions of the court, and upon the request of either party to the litigation, or the order of the court or judge, take full stenographic notes of the testimony and of all objections, rulings, exceptions, and other proceedings given or had thereat.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa to modify his amendment as suggested?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

Page 22, line 8, after the word "and," insert the words "upon the request of either of the parties to the litigation, or the order of the court or judge." And on the same page, line 11, strike out the words "except when the judge dispenses with his services in a particular case, or with respect to any portion of the proceedings therein."

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

Mr. GOLDFOGLE. Mr. Chairman, I withdraw the amendment that I offered.

The CHAIRMAN. Without objection, the gentleman from New York withdraws his amendment.

There was no objection.

The Clerk read as follows:

SEC. 54. The stenographer shall, upon request, furnish, with all reasonable diligence, to the defendant or his attorney in a criminal cause, or a party or his attorney in a civil cause, a copy from his stenographic notes of the testimony and proceedings, or a part thereof, upon the trial or hearing, upon payment by the person requiring the same of the fees provided elsewhere in this title: *Provided*, That he shall make no charge for such services when rendered on behalf of the United States or when the judge requires such a copy to assist him in rendering the decision.

Mr. IGOE. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 22, line 26, after the word "decision," insert the following: "*Provided also*, That in criminal cases punishable by imprisonment or death, where the defendant shall have been found guilty, a transcript of the evidence shall be furnished the defendant for use on appeal or writ of error in any court of review, and the cost of furnishing same shall be borne by the Government of the United States, provided the defendant shall make request therefor and shall file with his request a statement under oath that he is without means to pay the cost thereof and is unable to procure funds with which to pay the same."

Mr. IGOE. Mr. Chairman, I would like to state that this amendment was prepared by the gentleman from Illinois [Mr. GORMAN], who is not here at the present time. I think the amendment is a good one and should be adopted. It explains itself. The purpose of the amendment is to give the defendants in criminal cases who are unable to pay for a transcript the right to secure, on filing an affidavit of inability to pay, a copy of the testimony taken in the criminal cases at the expense of the United States Government.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. IGOE. Yes.

Mr. BARTLETT. What are the requirements in the affidavit that he must make?

Mr. IGOE. He files a request for the transcript, together with a statement under oath that he is unable to pay for it and is unable to procure funds with which to pay for it.

Mr. WATKINS. Mr. Chairman, it is perfectly evident that every defendant—at least, a large majority of them—will avail

himself of this privilege, if the man is on trial for a criminal offense, particularly if he is guilty—if, in other words, he is a criminal not yet convicted. If he has been so badly disposed toward the law of the country as to violate the criminal laws, it is perfectly evident that he will always make this application and affidavit. I do not think that on a mere statement, whether sworn or unsworn, of the ordinary defendant in a court on the criminal docket we ought to grant this privilege at the expense of the Government. On the other hand, however, if there was sufficient showing made to satisfy the court that the defendant was a pauper, that he was not able to bear the expense, then it may be it would be proper for the Government to go to the expense of furnishing him with his testimony; but I shall certainly oppose the amendment unless the wording of it is so modified as to leave it clearly within the discretion of the court to say whether a sufficient showing has been made to justify the court in coming to the conclusion that the defendant is not financially able to bear the expense of the transcript.

Mr. TOWNER. Mr. Chairman, the matter raised by this amendment is really of considerable importance. I wish it might be more carefully considered by the committee. I think there ought to be some provision by which under some circumstances an indigent man charged with a serious crime could procure for his aid in appeal a copy of the testimony. I think there is no provision in the bill by which this can be secured, and it might result in a denial of justice. On the other hand, there are a great many cases that would come within the amendment that the gentleman has offered; for instance, cases against the postal laws and against the revenue laws, where the penalty is imprisonment, which are comparatively unimportant and in which, without an application made to the court or judge, the right ought not to be given to the defendant to procure the copy of the transcript of the evidence at the expense of the Government. My idea would be, if the amendment could be changed so that the application should be made to the court, and by him granted in his discretion, except in capital cases or in cases where the punishment might be imprisonment for life; and I think in such cases the man ought to have the right to the transcript whether or not the court orders it; in all other cases, I suggest it would be better if it were left to the judge to determine whether it should be granted.

Mr. IGOE. Does the gentleman mean that it should be left to the discretion of the court altogether, or does he mean to leave it to the court to determine whether the defendant is able to pay?

Mr. TOWNER. Yes; and whether it should be done at the expense of the Government.

Mr. IGOE. I would like to suggest I would be willing to modify the amendment, if it would meet the approval of the committee, so that the judge of the court might pass upon the affidavit and inquire into the facts as to the ability of the defendant to pay for the transcript, leaving it, therefore, to the judge to determine.

Mr. TOWNER. Would it not be necessary only to add to the amendment the words "at the discretion of the court"?

Mr. IGOE. I do not know that it would be very much of an improvement to leave it to the discretion of the court, both as to the ability to pay and as to whether the application should be granted. The judge might be a little bit backward about granting a free transcript in certain cases.

We know of one very prominent case very recently where the court indicated all through the trial a disposition to belittle the defense, and if one of the defendants in a case of that sort should apply for a transcript the judge might be unwilling to grant the request.

Mr. TOWNER. Mr. Chairman, I will say to the gentleman that if he will modify his amendment, even as he says, I will support it, although I would be better satisfied if it were left to the discretion of the court.

Mr. IGOE. Then I ask unanimous consent to modify my amendment by striking out the last proviso and inserting the following:

Provided, The defendant shall make request therefor and shall prove to the satisfaction of the judge that he is without means to pay the cost thereof and is unable to procure funds with which to pay the same.

Mr. WATKINS. Mr. Chairman, I think there will be no objection to that verbiage unless it is intended to strike out all of it after the word "provided."

Mr. IGOE. In the amendment I offered?

Mr. WATKINS. Oh, yes.

Mr. IGOE. This is an amendment to my amendment.

Mr. WATKINS. Yes.

The CHAIRMAN. The Clerk will report the amendment as modified.

Mr. TOWNER. I think perhaps it should read "provided also," because it follows the language "provided."

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

Strike out the last proviso in the amendment and insert in lieu thereof the following: "Provided the defendant shall make request therefore and shall prove to the satisfaction of the judge that he is without means to pay the cost thereof and is unable to procure funds with which to pay the same."

Mr. STAFFORD. Now, Mr. Chairman, may we have the amendment reported as amended?

The CHAIRMAN. The Clerk will report the amendment as amended.

The Clerk read as follows:

Page 22, line 26, after the word "decision," insert the following: "*Provided also*, That in criminal cases punishable by imprisonment or death, where the defendant shall have been found guilty, a transcript of the evidence shall be furnished the defendant for use on appeal or writ of error in any court of review, and the cost of furnishing same shall be borne by the Government of the United States, provided the defendant shall make request therefor and shall prove to the satisfaction of the judge that he is without means to pay the cost thereof and is unable to procure funds with which to pay the same."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 55. The stenographer shall attend to the duties of his office in person, except when excused for good and sufficient reason by order of the court, which order must be entered upon the minutes of the court. When the stenographer of any court has been excused in the manner provided by this section, the court may appoint a stenographer pro tempore, who shall take the same oath and perform the same duties and receive the same compensation during the time of his employment as the regular stenographer.

Mr. STONE. Mr. Chairman, observing men have noticed for same time a nation-wide propaganda against the progressive policies of the present administration. It seems to be the hope of certain powerful interests, by a campaign of misrepresentation of the laws already enacted, to deter President Wilson from carrying out his program. The objection really is not so much to what has been accomplished as to what is in prospect. The gigantic trusts and monopolies that have had their unholy hands on the throats and in the pockets of the American people seek to prevent the passage of legislation that will require them to comply with the rules of fair trade and that will make those personally liable for violations of the antitrust law suffer for their wrongdoing. If they should direct their efforts against the particular measures which they wish to defeat, their motives would be manifest and their movement would fail. Instead they attack other matters of less or no concern to them and pursue the attack with vigor and venom in the belief that thereby they will cause our able and courageous President to think it expedient to abandon his plans for further legislation until this manufactured storm about completed legislation has subsided.

Generally the misleading statements appear anonymously as news articles, sometimes in the larger city dailies, but more often in the patent insides of country weeklies innocently purchased by the editors from the ready-print trust. In this way the authorship is seldom fixed and, therefore, responsibility for the false utterances is avoided. It is only occasionally that such erroneous statements are made by an individual of prominence under such conditions as to reveal his identity.

Such an instance occurred recently in my home city of Peoria, Ill. On the evening of April 27 Hon. Frank O. Lowden delivered an address to a Republican club there. Mr. Lowden was formerly a Member of this House, but is now known chiefly because of his connection with the Pullman Co., a corporation which, by requiring the traveling public to give generous tips for service which the company ought to provide and by other economies, has been enabled in the last few years to issue over 100 per cent in stock dividends, pay 8 per cent cash dividends on its stock regularly, and accumulate an enormous surplus. In the course of his remarks he presented as facts things so utterly false that his announcement of them must be attributed either to pitiful ignorance or to dastardly design. If unchallenged, their tendency would be to destroy confidence, cause business depression, and bring disaster upon the country. In referring to the Federal reserve act, which established a new banking and currency system, Mr. Lowden said:

Under its provisions the Federal Reserve Board have the power to suspend for 30 days the requirement that notes be redeemed in gold, and to continue this suspension for 15 days further from time to time. Many men fear that in times of great financial stringency the board may, yielding to the tremendous pressure which will be brought upon them, so use this power that the whole question of fiat money will have to be fought over again, particularly in view of the fact that the new currency provided for is not to be issued by the banks, as it should be, but by the Government. For it will be easy to make those who never have favored the gold standard believe that the value of the currency to be issued depends not upon the requirement of its redemption in gold, but upon the fact that the Government has issued it.

The contention that the Federal reserve notes are not at all times and under all circumstances redeemable in gold is absurdly false. Section 16 of the Federal reserve act states:

The said notes shall be obligations of the United States, and shall be receivable by all national and member banks and Federal reserve banks, and for all taxes, customs, and other public dues. They shall be redeemed in gold on demand at the Treasury Department of the United States, in the city of Washington, D. C., or in gold or lawful money at any Federal reserve bank.

Nowhere is there a provision which under any possible construction gives to the Federal Reserve Board authority to suspend this requirement for redemption. In order to give double assurance that Federal reserve notes are always redeemable in gold it is provided in section 26 that—

Nothing in this act contained shall be construed to repeal the parity provision or provisions contained in an act approved March 14, 1900, entitled "An act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes."

The act of March 14, 1900, just mentioned, is familiarly known as the gold-standard law, and provides:

That the dollar consisting of 25.8 grains of gold nine-tenths fine, as established by section 3511 of the Revised Statutes of the United States, shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity of value with this standard, and it shall be the duty of the Secretary of the Treasury to maintain such parity.

The Secretary of the Treasury may, for the purpose of maintaining such parity and to strengthen the gold reserve, borrow gold on the security of United States bonds, issue one-year gold notes bearing interest at a rate not to exceed 3 per cent per annum, and so forth.

The ordinarily astute Mr. Lowden surely allowed his boldness or recklessness to lead him into this unwarranted assault upon the Federal reserve act. It was uncomplimentary to the audience which he addressed to assume that their intelligence would accept such an absolutely baseless assertion. No well-informed and truthful banker will attempt to sustain him in the argument which he advanced. His position is entirely untenable, and candor should compel him to admit the fact and undertake to correct the wrong which his public criticism has caused.

Perhaps Mr. Lowden will endeavor to justify his charge by quoting the first part of division (c) of section 11 of the Federal reserve act, wherein the Federal Reserve Board is authorized and empowered—

To suspend for a period not exceeding 30 days, and from time to time to renew such suspension for periods not exceeding 15 days, any reserve requirement specified in this act.

The power to suspend the reserve requirements does not affect nor qualify the redemption features of the law. The reserve requirements are set forth in detail in section 19. They specify the per cent of the demand deposits and of the time deposits which a bank must keep in its vaults and in the Federal reserve bank of its district, and the amount of gold held by the Federal reserve banks to redeem outstanding Federal reserve notes. A suspension of these requirements would permit the holding by a bank of a less amount in its vaults and in the Federal reserve bank of the district. This would enable a bank in an emergency to pay out more than it would ordinarily be permitted to do in order to satisfy an unusual demand to liquidate liabilities, but it does not alter the character of the money used to make payments nor to redeem Federal reserve notes. Any confusion on this subject is cleared by the first proviso under division (c) of section 11, which immediately succeeds the portion heretofore quoted, and which is as follows:

That it (Federal Reserve Board) shall establish a graduated tax upon the amounts by which the reserve requirements of this act may be permitted to fall below the level hereinafter specified.

The remainder of division (c) is devoted to a schedule of penalties to be increasingly applied as the gold reserve held against Federal reserve notes falls below 40 per cent. There is not the slightest suggestion anywhere in the Federal reserve act that the suspension of the reserve requirements involves more than the amount of the reserves. The penalties prescribed refer wholly to a possible deficiency in the amount of the gold reserve and not at all to a change in the character of the reserve.

The power conferred by the Federal reserve act upon the Federal Reserve Board to suspend the reserve requirement is not a new proposition, nor has it proved a dangerous one. A power analogous to this was exercised by the Comptroller of the Currency with respect to national banks for nearly 50 years. Section 5191 of the national-bank act provides that—

The Comptroller of the Currency may notify any association whose lawful money reserve shall be below the amount above required to be kept on hand to make good such reserve; and if such association shall fail for 30 days thereafter so to make good its reserve of lawful money, the comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of the association, as provided in section 5234.

Under section 5191 of the national-bank act, the Comptroller of the Currency was explicitly authorized to tolerate for a period of 30 days a violation of the reserve requirements of the act without applying a penalty. This power was often abused, and violations were tolerated for several years instead of for a single month. The penalty prescribed for the offense indicated was so radical that it was not applied in the whole history of the national banking system. The Federal reserve act does not lodge this power in one man, but commits it to a board of seven men and charges them with the duty of prescribing and enforcing a reasonable penalty for violation of law. The power to suspend reserve requirements as to their amount was included in the law because three times within 60 years the British Parliament has found it necessary to sanction by law similar suspensions in order to arrest panics in Great Britain. It will rarely if ever be used, but it is important that the Federal Reserve Board should have this power. Even if used, it does not mean that "the whole question of fiat money will have to be fought over again." That might result if such action were allowable as was taken in 1907, when, under the old system, banks refused not merely to pay deposit liabilities in gold or lawful money, but refused to pay out money or currency of any kind.

The suggestion that Federal reserve notes constitute a fiat currency reaches the height of the ridiculous. The most casual survey of the conditions governing the issuance of this currency and the securities provided for its redemption disproves such an insinuation.

The Federal reserve act provides that the Federal Reserve Board may, in its discretion, issue to a Federal reserve bank, on application, currency in amount equal to collateral presented and indorsed by the Federal reserve bank and the member banks and deposited with it as security for such currency issues, the collateral thus deposited being notes, drafts, or bills of exchange arising out of actual commercial transactions, or being issued or drawn for agricultural, commercial, or industrial purposes, or the proceeds of which have been used or are to be used for such purposes, having a maturity not not exceeding 90 days except in the case of certain agricultural paper, where a longer maturity is allowed.

This currency is issued by the United States Government, is its obligation, and is redeemed by the United States Government in gold if presented to it for redemption. The credit of the United States alone has proved sufficient to make the greenback as good as gold, but the Federal reserve notes have behind them not only the credit of this great Republic, representing $125,000,000,000 of property and the strongest and most virile Nation with the most stable form of government that the world has ever known, but besides have behind them in array of other securities which would be ample in themselves.

What are these other securities?

First, there is the obligation of a trusted citizen to a member bank upon his negotiable paper of a qualified class based upon an actual commercial transaction. Experience has shown that the probability of failure of that security is about 1 in 10,000.

Second, there is the obligation of the member bank that indorsed the commercial paper. The probability of a bank in good standing which has been extended accommodation by the Federal reserve bank failing within 90 days is about 1 in 25,000. Before the Government of the United States can lose by the issuance of a Federal reserve note on commercial paper of the kind required both the trusted citizen and the member bank must fail within the same 90 days. The probability of failure of these two securities occurring within the same 90 days would be 1 in 10,000 multiplied by 25,000, or 1 chance in 250,000,000.

These two securities for Federal reserve notes, the individual credit of the drawer of the commercial paper and of the member bank which indorses it, have been sufficient in other countries, as in Germany, which emits legal-tender notes against commercial paper, and also in France, that has the right to issue legal-tender notes against commercial paper taken by the Bank of France for discount.

However, under the Federal reserve system a chance for loss, so remote as to be in the ratio of one to two hundred and fifty million, is protected by a series of additional safeguards. The Federal reserve notes are further secured by the stock of the member bank in the Federal reserve bank, by the reserves of the member bank on deposit in the Federal reserve bank, by the double liability of the stockholders of the member bank, by the 40 per cent gold reserve, by the surplus and earnings of the Federal reserve bank, by the first lien upon all the assets of the Federal reserve bank, by the double liability of the member banks belonging to the Federal reserve bank, and by the double

liability of the stockholders of the member banks of the Federal reserve bank.

It seems inconceivable that the Federal reserve notes, protected as they are in these various ways, should be compared with fiat currency which has behind it only the Government credit. Other objections have been urged to the system, but no critic of the Federal reserve act, save Mr. Lowden, whether banker, business man, or specialist, has had the audacity to seriously contend that the Federal reserve notes are not entirely safe. As a practical fact the security behind the Federal reserve notes is many times more than sufficient to satisfy the obligation before the holder would reach the United States Treasury, but superimposed upon the 10 lines of security already outlined is the obligation of the United States. To express solicitude about the soundness of such currency is to exhibit sheer foolishness. Sensible people will not be deceived nor alarmed by such an unfounded complaint, by such an obvious pretense. The outcry of Mr. Lowden will prove futile, because to be otherwise it would require such a degree of simplicity and credulity among the people as has never been witnessed since the world began.

The Federal reserve notes are not only sound but their volume can be increased or decreased to meet the requirements of trade and commerce. Our country has never before had an elastic currency. At times it was redundant and encouraged reckless speculation with the consequent reaction and depression. At other times it was so stringent that the rates of interest became exorbitant, and business of all kinds was practically paralyzed.

The President recommended the character of currency which should be authorized when in the course of his message on banking and currency he said:

> We must have a currency, not rigid as now, but readily, elastically responsive to sound credit, the expanding and contracting credits of everyday transactions, the normal ebb and flow of personal and corporate dealings.

The great purpose outlined by the President has been accomplished in the Federal reserve act. Everyone has recognized for years the necessity of making provision for the varying currency demand. All nations which have a modern financial system have long had such a currency. Yet distinguished but now discredited Republican leaders in Congress delayed and denied relief from year to year, until the demands of the people changed to reproaches. Under the leadership of a Democratic President, who yields neither to greed nor to declamation, who has the courage and the constancy to fulfill his promises, the Sixty-third Congress has provided for such a currency as will give prompt and efficient relief.

The complaint of Mr. Lowden, that the new currency "is not to be issued by the banks, as it should be, but by the Government," will meet with the hearty concurrence of every Wall Street financier, but will not get a favorable response from the great masses of the American people. The President voiced the will of an overwhelming majority of the people of this country when in the course of his message he suggested that—

> The control of the system of banking and of issue which our new laws are to set up must be public, not private, must be vested in the Government itself, so that banks may be the instruments, not the masters, of business and of individual enterprise and initiative.

Deep-rooted in the American mind is the idea that control of the currency is a function of sovereignty, not to be surrendered to banks or private interests; that the people's money ought to be issued and controlled by the people's Government. Inasmuch as all business and industry are dependent for success upon the volume and the circulation of currency, its issuance should be controlled by the Government for the public good, not by large individual banks, whose policy would be directed by their own profit and interests. Such great power should be exercised for the benefit of all the people and not for the enrichment of a few. It is only through accredited Government officers that the people can act in this matter, and it is far preferable to intrust this power to representatives of the people than to private individuals, who have no public responsibility and hence no obligation to work for the public betterment in preference to their own selfish interests.

No, Mr. Chairman, instead of being made the object of bitter attack, the Federal reserve act deserves to be warmly welcomed by all who value and who would preserve the rights of the people. It is freighted with reforms and benefits. It remedies the weaknesses and deficiencies and corrects the evils of the national-bank system. It avoids the vices and dangers and monopolistic tendencies of the Aldrich scheme which the Republican Party proposed. It embodies so much of all established systems as has been shown by the stress and storm of experience to be free from defect, supplemented by what experience has shown to be lacking. It serves alike and without partiality or injustice all classes and interests and promotes all legitimate business. It will save the country in the future from the paralyzing influence of monopoly of money and bank credits; effectively prevent panics which have heretofore threatened our whole financial structure; avoid the prospect of disaster always imminent while Wall Street could put into the maelstrom of stock operations the hundreds of millions of dollars of the reserves of interior banks by requiring that hereafter reserves shall be kept in the Federal reserve banks to be dedicated to the development of commerce, agriculture, and manufactures in the Federal reserve district where the money belongs; create a discount market where commercial paper can be readily discounted, thus enabling banks to extend to customers all prudent and legitimate accommodation; permit the extension by banks of their activities into foreign fields, so that it will be possible for them to handle a vast amount of highly profitable business which American business men are accustomed to turn over to foreign institutions, for the simple reason that under the old order of things American banking institutions were not allowed to establish foreign branches; and provide a more effective and less expensive method of domestic exchange and collection and also a system of examination and publicity which better safeguard the banking operations of the country.

The system will stand the test of fair disputation. Yes; it will survive even the crafty and shameless assaults which a desperate political exigency has caused to be directed against it. Seven thousand four hundred and eighty-two out of a possible seven thousand four hundred and ninety-seven national banks have already signified their intention to join the system, thus assuring its success and at the same time hurling the lie into the faces of those who prophesied its failure through the refusal of the banks to join. Under its beneficent operation and despite the pretended anxious doubts and chilling fears of political marplots who to regain lost power or to intimidate persons charged with a public duty would bring upon their countrymen the ruin which they affect to decry, this mighty Republic is destined to advance rapidly and continuously along the pathways of progress and prosperity.

Mr. TOWNER. I would like to ask the chairman of the committee if he does not think the language in line 6, the word "may" should be changed to "shall." If it leaves the power in the discretion of the judge whether, when a vacancy occurs, he may or may not appoint a stenographer to act in his stead, would not that act as a means by which a report of the transactions of the court might fail?

Mr. WATKINS. I will state to the gentleman there may be some case in which it would not be absolutely necessary for the court at once to appoint the stenographer. The word "may" was left in the discretion of the court ad interim—that is, at the time the vacancy occurs and the time of appointment of a permanent stenographer—and I do not think there would be any danger in leaving it to him. It is possible there may be occasion when it would not be necessary at once to go to the expense or for the court to take the trouble of selecting some one to appoint at that particular time. Sometimes judges go away to spend their vacations, and there may be contingencies in which it would not be absolutely necessary to appoint the permanent stenographer. The word "shall" is peremptory, and would force him at once to make the appointment.

Mr. TOWNER. I think, perhaps, that might be true; but I merely desired to suggest that to the chairman. Of course, taken in connection with the amendment already adopted by the committee, it allows parties to proceedings to demand that the evidence shall be taken, and I think perhaps no harm can be done.

The Clerk read as follows:

> SEC. 57. The following and no other compensation shall be taxed and allowed to attorneys, solicitors, and proctors in the courts of the United States, to district attorneys, clerks of the circuit courts of appeals and district courts, marshals, commissioners, jury commissioners, stenographers, witnesses, jurors, and printers, in the several States and Territories, except in cases otherwise expressly provided by law. But nothing herein shall be construed to prohibit attorneys, solicitors, and proctors from charging to and receiving from their clients, other than the Government, such reasonable compensation for their services, in addition to the taxable costs, as may be in accordance with general usage in their respective States, or may be agreed upon between the parties.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word for the purpose of obtaining some information. I notice that in the present paragraph the committee has inserted two new classes—jury commissioners and stenographers. I assume that jury commissioners at the present time have no stated salary or stated fees, and in the bill as proposed the gentleman is going to limit the fees of the jury commissioners.

Mr. WATKINS. They are fixed at $3 a day.

Mr. STAFFORD. Does the gentleman intend to change the present regulations, so far as jury commissioners are concerned?

Mr. WATKINS. I see no cause for it.

Mr. STAFFORD. Very well. I withdraw the pro forma amendment.

The CHAIRMAN. The pro forma amendment is withdrawn, and the Clerk will read.

Mr. WATKINS. Excuse me for just a moment. I want to answer the gentleman's question properly.

Mr. STAFFORD. I direct the attention of the chairman to section 92, page 59.

Mr. WATKINS. That is what I was going to say; I was mistaken about the compensation. I had in mind jurors instead of jury commissioners. It is $5 a day for jury commissioners; and I had in mind jurors when I answered the question.

The Clerk read as follows:

SEC. 59. The United States district attorney for each of the following judicial districts of the United States shall be paid, in lieu of all fees, per centums, and other compensations, an annual salary, as follows: For the northern and middle districts of the State of Alabama, each $4,000; for the southern district of the State of Alabama, $3,000; for the district of Arizona, $4,000; for the eastern and western districts of Arkansas, each $4,000; for the northern district of California, $4,500; for the southern district of California, $4,000; for the district of Colorado, $4,000; for the District of Columbia, $6,000; for the district of Connecticut, $2,500; for the district of Delaware, $2,000; for the northern and southern districts of Florida, each $3,500; for the northern district of Georgia, $5,000; for the southern district of Georgia, $3,500; for the district of Idaho, $4,000; for the northern district of Illinois, $10,000; for the southern and eastern districts of Illinois, each $5,000; for the district of Indiana, $5,000; for the northern and southern districts of Iowa, each $4,500; for the district of Kansas, $4,500; for the eastern and western districts of Kentucky, each $5,000; for the eastern district of Louisiana, $3,500; for the western district of Louisiana, $2,500; for the district of Maine, $3,000; for the district of Maryland, $4,000; for the district of Massachusetts, $5,000; for the eastern district of Michigan, $4,000; for the western district of Michigan, $3,500; for the district of Minnesota, $4,000; for the northern and southern districts of Mississippi, each $3,500; for the eastern and western districts of Missouri, each $4,500; for the district of Montana, $4,000; for the district of Nebraska, $4,000; for the district of Nevada, $4,000; for the district of New Hampshire, $2,000; for the district of New Jersey, $5,000; for the district of New Mexico, $4,000; for the southern district of New York, $10,000; for the northern, western, and eastern districts of New York, each $4,500; for the eastern district of North Carolina, $4,000; for the western district of North Carolina, $4,500; for the district of North Dakota, $4,000; for the northern and southern districts of Ohio, each $4,500; for the eastern and western districts of Oklahoma, each $4,000; for the district of Oregon, $4,500; for the eastern district of Pennsylvania, $6,000; for the middle and western districts of Pennsylvania, each $4,500; for the district of Rhode Island, $2,500; for the eastern and western districts of South Carolina, $4,500, $2,500 of which shall be for the performance of the duties of district attorney for the western district; for the district of South Dakota, $4,000; for the eastern, middle, and western districts of Tennessee, each $4,500; for the northern, southern, eastern, and western districts of Texas, each $4,000; for the district of Utah, $4,000; for the district of Vermont, $3,000; for the eastern district of Virginia, $4,000; for the western district of Virginia, $4,500; for the eastern and western districts of Washington, each $4,500; for the northern and southern districts of West Virginia, each $4,500; for the eastern and western districts of Wisconsin, each $4,000; and for the district of Wyoming, $4,000.

Mr. CALDER. Mr. Chairman, I submit the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

"Page 27, line 20, after the word 'western,' strike out 'and eastern,' and in line 20, after the word 'northern,' insert the word 'and,' and in line 21, after the word 'dollars,' insert 'for the eastern district of New York, $6,000.'"

Mr. CALDER. Mr. Chairman, this amendment, if agreed to, will fix the compensation of the United States district attorney of the eastern district of New York at $6,000. The salary he receives now is $4,500. The eastern district of New York is composed of the counties of Kings, Queens, Suffolk, Nassau, and Richmond in that State, and contains a population of 2,500,000 people; all of the great Boroughs of Brooklyn, Queens, and Richmond, of the city of New York, besides the counties of Nassau and Suffolk are contained in the district. In this district we have five State's attorneys, or county district attorneys, and in the county of Kings, which contains the Borough of Brooklyn, the district attorney receives a salary of $10,000 a year. In the county of Queens he receives $8,000 and in the counties of Richmond, Nassau, and Suffolk $5,000. The salary of $4,500 was fixed many years ago when the population and business of this district was small comparatively. In the old days most of the business in that part of the State was transacted in the southern district, which was the old city of New York. Four years ago Congress created an additional judge in the eastern district, and since then the business has more than doubled.

Mr. BARTLETT. Will the gentleman yield for a question?

Mr. CALDER. With pleasure.

Mr. BARTLETT. Is it not a fact until recent years the district attorneys were entitled to certain fees as compensation——

Mr. CALDER. Yes.

Mr. BARTLETT. And that in addition to their salary?

Mr. CALDER. Yes.

Mr. BARTLETT. But in recent years, I do not recollect exactly the date, although I could obtain it in a moment, we have fixed the salary of the district attorneys at a certain amount instead of paying fees?

Mr. CALDER. Yes.

Mr. BARTLETT. And the compensation that we have fixed for the district attorney in this district to which the gentleman has reference is not commensurate with the duties he has to perform and the service he has to render?

Mr. CALDER. That is so.

Mr. BARTLETT. And in order to get the class of lawyers who ought to be in a position to discharge these important duties the salary ought to be sufficient to attract to it that class of lawyers that can perform the duties best?

Mr. CALDER. Mr. Chairman, the gentleman from Georgia is correct. Forty-five hundred dollars paid a man fit to be district attorney in the great city of New York, I am sure you will all agree, is nowhere near enough.

Mr. BARTLETT. I do not think it is enough for a United States district attorney in any district in the United States.

Mr. CALDER. I agree with the gentleman on that, too, especially as to this great city, where we pay the county district attorney a salary of $10,000, and in the other counties in that district more than the amount the United States Government pays. This man has four assistants under him, and the place ought to attract the very best legal talent we have. And the pay—$4,500—I am sure the committee must agree, is not sufficient.

Mr. BARTLETT. Not only that, if the gentleman will permit me, but take the district in which I live, the southern district of Georgia. The southern district of Georgia is provided a district attorney, at $3,500, and the northern district a district attorney, at $5,000, the northern district embracing Atlanta, where they try a thousand cases, I presume, a year, and transact other important business.

I do not know what the policy was of the former administration, and I am not criticizing it; but the policy pursued by this administration, which I think is a proper one—and probably the gentleman has not had the experience I have—is that when you undertake to secure the appointment of a district attorney, the first question asked by the Attorney General or those who represent him is whether or not he will agree to give all of his time to the office of district attorney. In other words, they are not satisfied—and I have no doubt that is the correct policy—to appoint a prominent lawyer to the office of district attorney if he will not agree to give all of his time to the office, or if he is to devote part of his time to professional duties not connected with his office. I have had this experience recently: A prominent lawyer in my district desired to be appointed district attorney; he desired to have the appointment more in recognition of his services to the party and on account of his position at the bar and the honor of the office than for any salary attached to it. He was asked the question if he would devote all of his time to the office. The Assistant Attorney General inquired of me how a man of that standing and position in the legal profession could agree to devote all of his time to the office at a salary of $3,500. I replied that he desired the office not for the salary, but for the honor of the position. His practice paid him more than that, but we happened in this case to be able to present a lawyer who was willing to serve the Government in an honorable position and to be recognized as a part of the Democratic administration, and because he had served the party loyally for many years as a member of the Democratic Party as State chairman. I said, "I do not see how he could afford to take it, but he desires the office in order that he may discharge the duties of it under this administration." So I say again, I do not believe any of the salaries of these district attorneys are commensurate with the duties of the office and in many instances do not secure that class of lawyers that ought to be appointed to fill such a high and important position, where they have to contend with the ablest lawyers of the country.

The CHAIRMAN. The time of the gentleman from New York [Mr. CALDER] has expired.

Mr. CALDER. Mr. Chairman, I ask unanimous consent for about three minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT. It will not do to say that because there are some prominent and able lawyers who do accept this office and who do perform satisfactorily the duties of it that therefore the salary is enough, and if they do not like it they need not

apply for it. Members of the legal profession, which is a high and noble profession, have something else in view rather than the dollars that can be made out of it. There is something else to be attained in this honorable profession of a lawyer than the mere money he can make out of it. So far as I am concerned, I think the gentleman from New York [Mr. CALDER] is right in endeavoring to give to this office in New York a salary commensurate with the duties to be performed, and which should attract to that office the very best legal talent that we can secure. The fact that the salaries are not made higher in my district or in my State will not prevent me from supporting the gentleman's amendment.

Mr. CALDER. Mr. Chairman, I thank the gentleman for his interruption. He has stated the case a great deal better than I could. I simply want to add this for the information of the gentlemen present: We have two district judges in this district constantly employed in trying cases, and this office has four assistant district attorneys in addition to the district attorney. It is very difficult to get the type of men that we require to transact the business.

In conclusion, Mr. Chairman, I want to call attention to the fact that the business transacted in the office of the United States district attorney for the eastern district of New York is much greater than that transacted in the eastern district of Pennsylvania, which includes the city of Philadelphia, where the salary is $6,000. The United States district attorney's office in Brooklyn is filled by the Hon. William J. Youngs, a very able lawyer and a man who has filled the place most acceptably. If it were not for the fact that he has other means, he could not afford to hold the place, and when his term expires it will be very difficult to get another man for the position who is anywhere near his equal unless the compensation is increased. I sincerely trust my amendment will be agreed to.

Mr. BROWN of New York. Mr. Chairman, I do not wish long to delay the committee from the consideration of this bill to codify, revise, and amend the laws relating to the judiciary, which bill is some 194 pages in length, but I can not let pass this opportunity to say a few words in support of the amendment offered by my colleague from New York [Mr. CALDER]. His amendment, as the members of the committee will recollect, is to increase the salary of the United States attorney for the eastern district of New York from $4,500 a year to $6,000 a year.

To bring the matter home to the committee, I will state that the population of Kings County, which comprises the old city of Brooklyn, now a part of Greater New York, according to the advance sheets just published by the Census Bureau, has reached the amazing figure of 1,833,696; the population of Queens County, also included within the city of Greater New York, is 339,886; the population of Richmond County (Staten Island), which is also included in the city of New York, is 94,043; the population of Nassau County, which lies within the first congressional district, according to the census of 1910, was 83,930; and the population of Suffolk County, which also lies within the first congressional district, was 96,138. Therefore the combined population of the area included within the eastern district of New York reaches the huge figure of 2,447,693 persons.

The committee will readily understand that the civil cases alone tried in this district in themselves are sufficient to entitle the district attorney to his present compensation, entirely aside from the criminal suits continually being prosecuted by him.

The distinguished gentleman from Georgia [Mr. BARTLETT], a member of the Appropriations Committee, has taken occasion to refer for the sake of comparison to the business done in the eastern district of Pennsylvania, which includes the city of Philadelphia. I notice from the report of the Attorney General for the fiscal year ended June 30, 1913, that in the eastern district of Pennsylvania, where the United States attorney receives a salary of $6,000 and his three assistants receive a total of $8,000, the number of cases commenced was 277, as against 220 in the eastern district of New York, where the three assistants of the United States attorney receive only $6,400 a year, but that during this same period 166 cases were terminated in the eastern district of New York as against 110 in the eastern district of Pennsylvania. Curiously enough, the judgments rendered in favor of the United States varied only $100 in the two districts, this difference being in favor of the eastern district of New York. Ten years ago in the eastern district of New York there were but 98 suits pending, whereas last year there were 192 suits pending.

The Federal Government has already recognized the increase in the amount of business to be done in the courts by assigning an additional judge to the eastern judicial district, so that there are now two judges continually trying cases in the city of Brooklyn. Mr. Chairman, while I believe that the mere presentation of these figures should be adequate to show the reasonableness of the amendment now pending before the committee, yet I desire to state further that under the present administration it is required of the United States attorney that he shall devote his entire time to the business of the Government. In the eastern district of New York the district attorney is confronted with the ablest lawyers in New York City, who have retainers from the corporations who employ them, in many cases, I should judge, amounting to over $50,000 a year. New York attracts the best legal talent from all over the country, and it is a fact known to all that, while the scale of living in New York may be higher than in most other places, the compensation paid the man of brains and ability is more than commensurate with the scale of living. If the Government is to be represented by a district attorney able to meet on an equal basis the best legal brains in the city, he should receive at least a reasonable compensation as judged by the standards of the locality.

While it is eminently fitting that this amendment should be proposed by the only Republican Congressman within the eastern district of the State of New York, it is no less fitting that the responsible majority party should take to itself the credit of enacting into law this much-needed increase in compensation. The present district attorney is a Republican, of whom no man—in my presence, at least—has said anything but good. If this amendment shall speedily be enacted into law, as I hope it may, he will receive the benefits of it during the remainder of his term of office. I am both glad and proud to have some little part in recognizing the distinguished services of a man who has served his country, no less than his party, these many years with great credit to himself and with entire satisfaction to his country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. CALDER].

The amendment was agreed to.

Mr. BARTLETT. Mr. Chairman, I move, on page 26, line 18, to strike out the words "three thousand five hundred" and insert "four thousand."

Mr. STAFFORD. Mr. Chairman, I wish to be recognized in opposition to the amendment, if no one wishes to speak in favor of it. Of course, every Member here—and there are not many here, not more than 25—can rise and propose amendments to increase the salary of the district attorneys of their respective districts. I do not know what the position of the chairman is going to be toward this program, but, of course, if we are going to make a wholesale increase of salary——

Mr. BARTLETT. Only one amendment offered now.

Mr. STAFFORD. Yes; but there will be many more.

Mr. IGOE. I have one.

Mr. STAFFORD. The gentleman from Missouri says he has one. We are going to load down this bill, and the result will be that instead of it being a codification it will be a bill for the increase of salaries.

Mr. IGOE. Will the gentleman yield?

Mr. STAFFORD. I will be glad to do so.

Mr. IGOE. Do you not believe it will be a good time to increase the salaries of these officers, if they need to be increased?

Mr. STAFFORD. The gentleman has been here long enough to know that it is not the regular way to raise salaries.

Mr. IGOE. You can not do it on an appropriation bill.

Mr. STAFFORD. The Judiciary Committee has reported to the House a bill revising the salaries of the clerks of the United States courts, and the salaries recommended will curtail their income under the present fee system. If there is merit in these respective propositions, they should go through the regular channel and not be submitted here haphazardly for the judgment of this very meager assembly.

Mr. BARTLETT. Mr. Chairman, may I interrupt the gentleman just a moment?

Mr. STAFFORD. If the Members are going to proceed with this policy, I serve notice now that there must be a quorum present.

Now, the gentleman from New York [Mr. CALDER] advanced a very meritorious case, and——

Mr. MAPES. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. Not at the present time. I took occasion to send for the report of the Attorney General, in order to compare the work in that district with the work in the only other district in the country where the district attorney is receiving $6,000, namely, in the eastern district of Pennsylvania. The work done in the eastern district of New York was nearly twice as much as that done in the eastern district of Pennsylvania. I thought the gentleman made out a very meritorious case. I was waiting to hear from the chairman of the committee as to his policy. Perhaps he is waiting to have each

one who is concerned with our respective district attorneys and looking after their interests to rise here and move to increase their salaries; but I say to the chairman of the committee and to the other Members here that it is not fair to the Members who are absent to take them unawares and report these increases in this way. If this practice is going to be continued, I serve notice that it will require a quorum to go on with the consideration of this bill.

Mr. GARRETT of Texas. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. GARRETT of Texas. Why does the gentleman say that it is not fair to the absent Members when they are well aware that this bill is now under consideration?

Mr. STAFFORD. Because in the consideration of similar bills it was the policy of this House not to pursue any such practice, and because the chairman of the committee stated that it was not to be the policy to amend this bill in any unusual manner.

Mr. BARTLETT. May I interrupt the gentleman to say that it was upon a bill identical with this that the salaries of the Supreme Court judges were increased?

Mr. STAFFORD. Yes; and they were increased at a time when there was not a quorum present, when the Members were downstairs at luncheon. I well remember that occasion, and the committee was taken unawares, as the committee is now being taken unawares. If that is the policy, well and good. Let us have a quorum here.

Mr. BARTLETT. Mr. Chairman, I dissent from the statement of my friend from Wisconsin that this is not the proper place to do it. This is the proper place in which it should be done. This is a bill revising the Judicial Code of the United States, providing for the officers and the salaries of these officers. It is a bill which provides for the offices of district attorneys in the various districts and the salary attached to each, like the other Judicial Code bill, providing for the courts and the judges and the salaries of the judges; and it was in that very bill that we fixed the salaries of the judges of the Supreme Court in 1911, providing the salaries that they now receive. At that time the salary was only $12,000. Nobody ought to be taken unawares, Mr. Chairman. Every Member of the House knows, or should know, that this bill is now being considered. Less than two hours ago we had a call of the House, in which two hundred and odd Members were present.

Mr. STAFFORD. That was before the ball game began.

Mr. BARTLETT. Well, Mr. Chairman, the gentleman from Wisconsin knows as well as I do, from his experience and service in this House, that all legislation, especially the details of a bill in this House, in this Congress, are worked out by the few faithful men who stay and give attention to business, as the gentleman from Wisconsin always does.

Mr. STAFFORD. I thank the gentleman.

Mr. BARTLETT. The gentleman from Wisconsin, whether there is a ball game going on or not, or any other amusement, is here attending to the duties that his constituents have intrusted to him.

Mr. STAFFORD. I appreciate the bouquets which the gentleman is handing me, but I shall not be swerved thereby from my position.

Mr. BARTLETT. I am not attempting to swerve the gentleman from his position. He knows and everybody else knows that it is true that he, among others who remain here, is endeavoring to perform his duty as best he understands it.

Take the State of Georgia. The gentleman will see that it is divided into two districts, the northern and the southern. In the northern district the district attorney gets $5,000, and in the southern district he gets $3,500.

Mr. COX. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Indiana?

Mr. BARTLETT. I do.

Mr. COX. What is the comparison between the business in the northern district and that in the southern district?

Mr. BARTLETT. I have not the report of the Attorney General before me. I did not anticipate that the question would be brought up. But it is not so disparaging as to pay one $3,500 and the other $5,000.

Mr. COX. Will the gentleman yield to another question?

Mr. BARTLETT. Yes.

Mr. COX. Was there any trouble in finding good lawyers who would be glad to fill the place in the southern district of Georgia?

Mr. BARTLETT. We have only had the chance in 20 years to find a man. We are trying now to find somebody.

Mr. COX. Has the place been filled by a Democrat?

Mr. BARTLETT. No; it is not now filled by a Democrat.

Mr. COX. Can the gentleman inform me how many applicants there are for that job?

Mr. BARTLETT. There are four.

Mr. COX. I presume they are good lawyers?

Mr. BARTLETT. They are very good. But the Democrats are willing to serve the Democratic Party and the country for very small pay, and are willing to serve for an amount of pay which would be very large pay to a Republican in my country.

Mr. GARRETT of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Texas?

Mr. BARTLETT. Yes.

Mr. GARRETT of Texas. I was just going to ask my friend from Georgia as to the difficulty in finding men to fill the places, so far as he is concerned. Would he have any difficulty in finding men who would be willing to come here as Members of Congress at that salary?

Mr. BARTLETT. A great many would come, and some would be willing to come at one-half the present salary, and be well paid, at that. [Laughter.]

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. DONOVAN. Mr. Chairman, is it necessary for me to make a pro forma motion?

The CHAIRMAN. The gentleman can move to strike out the last word.

Mr. DONOVAN. Just a word, Mr. Chairman. How is that we get back to page 26? I thought that had been passed. By what sort of legislative proceeding do you turn back? We acted upon fixing the salary of the district attorney in one of the New York districts, and now by some species of legerdemain you go back.

Mr. BARTLETT. No. That is in the same paragraph.

The CHAIRMAN. There are three pages in this paragraph. The paragraph was read, and it is subject to amendment.

Mr. DONOVAN. Mr. Chairman, I did not expect you to answer the question. I supposed some of these legislative sharps around here would be able to answer. This bill, as I understand, Mr. Chairman, is read by the clerks; and, of course, they read it in rotation. All that part has been read and passed, and we were up to page 27, line 20. Now, this gentleman gets up here, on account of the success of the Member from the Brooklyn district in getting an increase of salary for an official there, and he takes it upon himself that no one will notice it, and goes back and offers an amendment.

Mr. BARTLETT. The gentleman is mistaken about that.

Mr. DONOVAN. The gentleman can take his seat for a moment. He has lots of time to talk. Now, let us see who is it we are raising the salary for? We might as well have a little truth. No one can deny that this court is to the United States a petty court; that it bears the same relation as a petty court to a State.

The principal part of its business is the trial of cases of infringements of the public acts. What are they? How much ability and brains does it take to fine a man who has failed to destroy the stamp on a cigar box? How much ability and brains does it take for the United States to secure a conviction and fix the penalty on some one who has not procured his special license for the sale of whisky? How much brains and ability in a lawyer does it take to punish some one for sending scurrilous matter through the mails on a post card? As I say, these are comparatively small matters. The salaries mentioned are, as a rule, ample, and lawyers are nearly committing murder in order to get appointed to these positions. Even my friend the gentleman from New York [Mr. GOLDFOGLE] is having his life made a burden the way they are beseeching him, trying to get an appointment for some lawyer in his locality. He is unable to attend to the duties of his office as Congressman on account of the greed of the legal brethren. My friend from Georgia [Mr. BARTLETT] rose from his seat, violating the legislative rules of procedure, on account of the gentleman from New York [Mr. CALDER] pulling a piece of pie out of this little legislative proceeding, and he tackles it and offers an amendment. Now, I am going with the gentleman from Wisconsin [Mr. STAFFORD], and if you are going to do this business you shall do it officially, with a sufficient number, right now.

Mr. COX. Mr. Chairman, I move to strike out the last word. I am in absolute sympathy with the statement made by the gentleman from Wisconsin [Mr. STAFFORD], and desire to back him up, that if you get any more of these increased salaries through here you have got to do it with a quorum. I did not oppose the motion of the gentleman from New York [Mr. CALDER], because I was looking to the chairman of the codifica-

tion committee, who brought this bill in here, to oppose the amendment.

Mr. WATKINS. Will the gentleman yield for an interruption?

Mr. COX. Yes; I will.

Mr. WATKINS. I have investigated the question and have ascertained the immense amount of work that is done in that district, and am surprised that a greater increase was not asked for. The work there thoroughly justifies the increase.

Mr. COX. I sat quietly by waiting for the chairman to oppose the amendment or to make some statement in explanation of his position, but I never heard him open his mouth. It has been my observation upon the floor of this House that when amendments are offered to a bill the man in charge of the bill makes a statement about it one way or the other, either opposing the amendment or admitting it. I know that the man who stands upon the floor of this House and says one word in behalf of the Treasury of the United States is engaging in a thankless task. He is met with the statement that persons could be got to come here to Congress at half the salary we are drawing, and I say that could be done, and probably with greater ability than the average membership of this House.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. COX. Just for a minute.

Mr. BARTLETT. I did not intimate anything of that sort. I said that those people who would come here for that amount would be well paid for the kind of service they could render.

Mr. COX. Master minds like Daniel Webster, Henry Clay, John C. Calhoun, and Thomas H. Benton never drew to exceed $8 per day, either as Members of this House or of the other body, and they only drew that $8 per day when Congress was in actual session. I do not subscribe to the doctrine that you have got to pay tremendous salaries before you can get a man commensurate to fill a job or a position. That rule may hold good in certain sections of this country, but it is the exception and not the rule. In Indiana the position pays only $5,000 a year, and yet I know that there was a tremendous struggle among men of my party out there to get that job, since this administration went into power, and I know that one of the ablest men of the bar of the State of Indiana was finally selected to fill that place, a man about whom there is no question but what he can go into any city and earn from $10,000 to $15,000 a year. And yet he took the job. That was a matter of his own concern. Why he wanted it I do not know, but he took it.

Mr. BARTLETT. Will the gentleman yield?

Mr. COX. For a question.

Mr. BARTLETT. Does not the gentleman think that this lawyer he refers to in Indiana would consider it somewhat of an honor to be a part of this great Democratic administration?

Mr. COX. I have no idea of what his controlling thought was. It evidently was not money; it probably was power. There are no doubt men in this House serving on a salary of $7,500 a year who, if they would stop and go into some business, would earn four times that amount of money. So it is not money all the time that men struggle for; it is power, influence, position. I do not subscribe and never have subscribed to the doctrine that we ought to pay salaries in order to get high-class, brainy men, because you will get them with the salaries that they are drawing at the time they are appointed.

Besides, here is another thing which is an evil everywhere: Men know when they are elected to the office, or when they are appointed to the office, exactly what the salary is, but immediately they begin a crusade to get the salary increased. That is true in my State, and I imagine it is true in other States in this Union. They know what the salary is before they are elected, but as soon as they are elected they conceive the idea of their great and grave importance, and they rush off to the legislature or Congress and exert themselves to get their salaries increased.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. COX. Mr. Chairman, I ask for two minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. COX. Men who are seeking these appointments now as district attorney know exactly what their salaries will be and they are willing to accept them, willing to work under them, and yet we are asked to increase them. But, as I said a while ago, the man who opposes these increases of salary, who says a word in behalf of the Treasury of the United States or of the taxpayers, is flaunted right and left, is ridiculed in every conceivable way that it is possible to ridicule him.

For one, Mr. Chairman, while I am on the floor of this House—and I am usually here—whether the chairman of the committee opposes the increases or not, you will never get another one through until you have a quorum to get it in. If we have to stand here when the roll is called every 30 minutes, it is going to be called. Because here is the place to do it, here is the bill, here is the foundation on which to build your increase of salary, and here is the time to do it. Because Members are absent is no reason why you who are interested in the increase should not offer them, and if they are offered a quorum is going to be called for, and if Members are in the city these proposed increases in salaries are going to be put in or defeated, one way or the other. [Applause.]

Mr. GARRETT of Texas. Mr. Chairman, in making an inquiry a moment ago of the gentleman from Georgia, I did not mean to cast any reflection on the integrity or the fidelity of any Member of this House. The gentleman from Indiana [Mr. Cox] seems to have taken exception because I asked the question if the gentleman from Georgia did not think that there were men who would come to Congress for half the price now provided by law. I think that there are men who would come to Congress, and be glad to get here, free of charge, not to serve the country but to serve some other special interest while they were here. [Applause.]

I believe that there are men who would be glad to be appointed district attorney, free of charge, in order that they might serve some other special interest rather than that of the Government of the United States. My query was in reply to a statement made by the gentleman from Indiana when he seemed to predicate his objection to this increase on the ground that some men might be found that would want the job and would be willing to take it. I do not know whether there was merit in the New York cases or not. I do not think the gentleman from Georgia would offer an amendment that he did not conscientiously believe was right and proper, but, Mr. Chairman, I have observed in the short time that I have been in this House that the loudest cry is made against the increase of salary of some little clerk or doorkeeper on some proposition to raise the salary of some little officer $100, but when you come to the great appropriation bills carrying hundreds of millions of dollars they pass the House without a roll call. I saw that very thing done less than a month ago—a bill passed this House appropriating over $100,000,000 out of the Treasury of the United States and not a man raised his voice against it or questioned one item in it. And yet men get up on the floor of this House, if you attempt to raise the salary of some worthy man to a living wage, and attempt to belittle men who are simply desirous of paying public officials a reasonable compensation for their services.

As far as I am concerned I am willing that every public servant should be paid a reasonable salary for honest services rendered the people. As far as the question of a quorum is concerned, I believe that there ought to be a quorum here every day when the House convenes, and that it should be kept here, and that Members should be in their seats all the time to transact the public business. [Applause.]

Mr. METZ. Mr. Chairman, I move to strike out the last two words. I have listened with very much interest to what the gentlemen have said, and I quite agree with what they have said as to the value of the services that these gentlemen render. I know the conditions in the Brooklyn office, and I am very glad that the amendment in respect to that office has been agreed to.

I ask unanimous consent to extend my remarks in the RECORD upon the subject of salaries.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. DONOVAN. Mr. Chairman, I am going to raise the point of order that we have no right to consider this matter. It has been passed. We have passed the page to which the amendment is offered, and we are up to line 21, on page 27. We can not go back this way promiscuously and offer amendments. The gentleman can ask unanimous consent to go back and make the motion.

Mr. BARTLETT. Mr. Chairman, there is no point of order in that.

Mr. DONOVAN. The gentleman should ask unanimous consent to go back and make his motion.

Mr. BARTLETT. Mr. Chairman, the gentleman is mistaken in respect to that. Let me proceed for just a moment and I am satisfied that when the gentleman's attention is called to it he will realize the error into which he has fallen. On page 26, line 1, section 59 begins, and on page 28, line 24, section 59 ends. In that section, which is all one paragraph, are contained provisions for the salaries for all of the district attor-

neys, commencing with Alabama and ending with Wyoming; and in that section is a provision for the salary for the district attorney for the eastern district of New York and for the southern district of Georgia. They are all in one paragraph, all in one section; and we have proceeded no further than that section.

The CHAIRMAN. Does the gentleman from Connecticut desire to be heard upon the point of order?

Mr. DONOVAN. Just one word. We are now reading this bill for amendment under the five-minute rule. We have read all of that portion to which the amendment has been offered. We have gone by it.

Mr. BARTLETT. We have not got by it.

Mr. DONOVAN. And we have gotten down to line 21, on page 27. That is our legislative proceeding—we are reading the bill for amendment. We have passed that page of the bill, and if the gentleman desires to make the motion he should ask unanimous consent to go back so that he may offer it at the proper point. That is all I care to say.

The CHAIRMAN. The Chair will state upon the point of order made by the gentleman from Connecticut that under the rules and practices of the House, in the reading of a bill the second time for amendment, it is read by paragraphs. This paragraph now before the committee covers three pages. The entire paragraph has been read, and when read it is subject to amendment in any part of it.

Mr. DONOVAN. Mr. Chairman, will the Chair permit an interruption?

The CHAIRMAN. Yes.

Mr. DONOVAN. The rules do not require a second reading. You have to get unanimous consent to have the Clerk report it again. It has to be by unanimous consent after we have gotten by a point.

The CHAIRMAN. The bill is being read now for the second time. The entire paragraph or any part of it is open to amendment. It is not necessary that the amendments should be offered first to the first part of the paragraph, and so on. An amendment could be offered to the last paragraph first or to the first paragraph last. Any part of the entire paragraph is subject to amendment at any time until the entire paragraph is finally passed. This entire paragraph is now before the committee, and the point of order is overruled.

The question is on the amendment offered by the gentleman from Georgia.

Mr. DONOVAN. Mr. Chairman, is not the chairman of the committee that has this matter in charge going to say anything?

Mr. STAFFORD. Let us have a vote, so that we may see what the feeling of the committee is.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

The question was taken; and on a division (demanded by Mr. BARTLETT) there were—ayes 15, noes 15.

So the amendment was rejected.

Mr. WATKINS. Mr. Chairman, I wish to state that, in view of the fact that I have been notified that there will be some other amendments to this section, and in view of the fact that it has been stated that a quorum would be demanded in case there were other motions made along this line, I move that the committee do now rise.

Mr. MURDOCK. I think the gentleman ought also to state that it is now 5 minutes of 5 o'clock.

Mr. STAFFORD. Mr. Chairman, it was not my purpose to make the point of no quorum if the motions were defeated.

The CHAIRMAN. The question is on the motion of the gentleman from Louisiana that the committee do now rise.

Mr. MURDOCK. Division, Mr. Chairman.

The CHAIRMAN. A division is called for.

The committee divided; and there were—ayes 30, noes 11.

So the motion that the committee rise was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. RUSSELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 15578, and had come to no resolution thereon.

SUPPLEMENTING EXISTING LAWS AGAINST UNLAWFUL RESTRAINTS AND MONOPOLIES.

The SPEAKER. The Chair recognizes the gentleman from Alabama [Mr. CLAYTON]. [Applause.]

Mr. CLAYTON. Mr. Speaker, I desire to call the attention of the House to the fact that I have this day made a report on the bill H. R. 15657, a bill which is entitled "To supplement existing laws against unlawful restraints and monopolies, and for other purposes."

Mr. MURDOCK. Mr. Speaker, will the gentleman yield?

Mr. CLAYTON. Certainly.

Mr. MURDOCK. Does that now complete the bills on trust matters that the gentleman will report?

Mr. CLAYTON. I think it does. I think I may say that this bill is comprehensive and embraces the subject matter which was contained in the several tentative bills which the committee had under consideration and with which the gentleman from Kansas is familiar.

Mr. BARTLETT. Does it include the bond-issue proposition?

Mr. CLAYTON. No. The Committee on the Judiciary did not have jurisdiction of that subject. That belongs to the Committee on Interstate and Foreign Commerce.

Mr. STAFFORD. Will the gentleman yield?

Mr. CLAYTON. With pleasure.

Mr. STAFFORD. Can the gentleman inform the House as to his plans for early consideration of the bill?

Mr. CLAYTON. I have asked the Committee on Rules to bring in a special rule for its early consideration.

Mr. STAFFORD. What is the form of the rule as expressed in the request of the gentleman?

Mr. CLAYTON. Well, it is in the usual form in like cases.

Mr. STAFFORD. How much time for debate?

Mr. CLAYTON. It was suggested by this rule that general debate should be had for 16 hours and 4 hours under the five-minute rule. It has since been suggested that perhaps it would be wise for the Committee on Rules to amend the latter proposition so as to make the time for debate under the five-minute rule longer than 4 hours.

MEMORIAL EXERCISES, BROOKLYN NAVY YARD, N. Y.

The SPEAKER. The House this morning passed a concurrent resolution (No. 39) authorizing the Speaker to appoint 15 Members to go to the funeral exercises of the sailors and marines killed at Vera Cruz. The Chair finds on investigation there are 18 of them and he wants to appoint Members from each district that had one, and in addition to that he would like to appoint the gentleman from New York [Mr. FITZGERALD] who introduced the resolution, the gentleman from New York [Mr. CALDER] who is the only Republican Member from New York, and Mr. MAHER, who represents that navy yard where these services are to take place, so the Chair would like to appoint 21 Members.

Mr. GARRETT of Tennessee. Mr. Speaker, I ask unanimous consent to reconsider the vote by which the concurrent resolution was passed.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to reconsider the vote by which the concurrent resolution was passed. Is there objection? [After a pause.] The Chair hears none.

Mr. GARRETT of Tennessee. Mr. Speaker, I ask unanimous consent that the resolution may be amended so as to provide for 21 Members.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the resolution be amended so as to provide for 21 Members. Is there objection?

Mr. GOLDFOGLE. Mr. Speaker, reserving the right to object, did we understand the Chair correctly to say that it was the desire of the Chair to appoint a Member from each district from which came one of these men who fell at Vera Cruz?

The SPEAKER. Yes.

Mr. GOLDFOGLE. The reason I asked that is that one of the men from my district fell there, and I wanted to be certain.

The SPEAKER. The Chair would request all Members in whose district one of these sailors or marines lived to inform the Chair, so that he can get the name. Is there objection? [After a pause.] The Chair hears none. The question is on the amendment.

The question was taken, and the amendment was agreed to.

The question was taken, and the resolution as amended was agreed to.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED.

The SPEAKER announced his signature to enrolled bill and joint resolutions of the following titles:

S. 5445. An act for the relief of Gordon W. Nelson;

S. J. Res. 97. Joint resolution authorizing the President to extend invitations to foreign Governments to participate in the International Congress of Americanists; and

S. J. Res. 142. Joint resolution authorizing the Vocational Education Commission to employ such stenographic and clerical assistants as may be necessary, etc.

LEAVE OF ABSENCE.

By unanimous consent, Mr. JACOWAY was granted leave of absence, for two days, on account of serious illness in his family.

ADJOURNMENT.

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 1 minute p. m.) the House adjourned to meet to-morrow, Thursday, May 7, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of mouth of Bayou St. John, Orleans Parish, La. (H. Doc. No. 963); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of Rock River, with a view to securing a channel 7 feet deep from the dam at the head of the feeder of the Illinois & Mississippi Canal, at or near Sterling, Ill., to the city of Janesville, Wis.; also with a view to ascertaining whether, for the maintenance of navigation, storage reservoirs are necessary at or near the headwaters of said river, and to determine what portion of the cost of said improvement should be borne by owners of water power and others (H. Doc. No. 964); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting an estimate of appropriation in the sum of $25,000 required for the service of the War Department for the fiscal year ending June 30, 1915 (H. Doc. No. 965); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Assistant Secretary of Commerce reporting, under section 4, act June 17, 1910 (36 Stat., p. 537), claim for damages which has been considered, adjusted, and determined by the Commissioner of Lighthouses in favor of the Fleming Contracting Co., of New York (H. Doc. No. 966); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting supplementary estimate for the public-building work within the limits of cost previously authorized (H. Doc. No. 967); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. OLDFIELD, from the Committee on Patents, to which was referred the joint resolution (H. J. Res. 257) authorizing the Commissioner of Patents to exchange printed copies of United States patents with the Dominion of Canada, reported the same without amendment, accompanied by a report (No. 624), which said joint resolution and report were referred to the House Calendar.

Mr. FERGUSSON, from the Committee on the Public Lands, to which was referred the bill (H. R. 15799) to provide for stock-raising homesteads, and for other purposes, reported the same without amendment, accompanied by a report (No. 626), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CLAYTON, from the Committee on the Judiciary, to which was referred the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, reported the same with amendment, accompanied by a report (No. 627), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (H. R. 962) for the relief of William H. Shannon, reported the same with amendment, accompanied by a report (No. 625), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 1432) granting a pension to Martha J. Curry; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 12949) for the relief of William S. Colvin; Committee on the Post Office and Post Roads discharged, and referred to the Committee on Claims.

A bill (H. R. 7455) granting an increase of pension to William T. Marshall; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 11729) granting an increase of pension to Effie Haywood Woodruff; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. OLDFIELD: A bill (H. R. 16322) amending sections 476 and 477 of the Revised Statutes of the United States; to the Committee on Patents.

By Mr. DILLON: A bill (H. R. 16323) to amend section 237, chapter 10, of the Judicial Code; to the Committee on the Judiciary.

By Mr. HELGESEN: A bill (H. R. 16324) to make Pembina, N. Dak., a port through which merchandise may be imported for transportation without appraisement; to the Committee on Ways and Means.

By Mr. ASWELL: A bill (H. R. 16325) to waive any and all claims of the United States to lands within the private-land claims located in township 6 north, range 3 west, in the State of Louisiana; to the Committee on the Public Lands.

By Mr. MOORE: A bill (H. R. 16326) to increase the pension of those who lost limbs in the military or naval service of the United States during the Civil War of 1861 to 1865, inclusive; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 16327) to provide an appropriation for the erection of a building within which to install a Government exhibit at the Panama-Pacific International Exposition; to the Committee on Industrial Arts and Expositions.

By Mr. CARLIN: A bill (H. R. 16328) to authorize the use of the property of the United States at Mount Weather, near Bluemont, Va., as a summer White House; to the Committee on Agriculture.

By Mr. SABATH: Joint resolution (H. J. Res. 261) for the appointment of a committee to attend the funeral ceremonies over the bodies of the Nation's dead who fell at Vera Cruz, to be held at New York City, Monday, May 11, 1914; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANSBERRY: A bill (H. R. 16329) for the relief of Jackson Brown; to the Committee on Military Affairs.

By Mr. BATHRICK: A bill (H. R. 16330) granting a pension to Florence Wood Hayden; to the Committee on Invalid Pensions.

By Mr. FITZHENRY: A bill (H. R. 16331) granting a pension to Samuel Stauffer; to the Committee on Invalid Pensions.

By Mr. HOBSON: A bill (H. R. 16332) granting a pension to Sarah B. Scott; to the Committee on Pensions.

By Mr. JOHNSON of South Carolina: A bill (H. R. 16333) granting a pension to Joanna C. Roper; to the Committee on Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 16334) granting an increase of pension to Joseph E. Freeston; to the Committee on Invalid Pensions.

By Mr. LEWIS of Maryland: A bill (H. R. 16335) granting an increase of pension to John Brown; to the Committee on Invalid Pensions.

By Mr. McCLELLAN: A bill (H. R. 16336) granting a pension to Charles Black; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16337) granting an increase of pension to Orra M. Duncan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16338) granting an increase of pension to John Gray; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 16339) granting an increase of pension to Mary E. Davis; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 16340) granting an increase of pension to Amelia Lefferson; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 16341) granting an increase of pension to Romain M. Hawkins; to the Committee on Invalid Pensions.

By Mr. SUTHERLAND: A bill (H. R. 16342) granting a pension to Elizabeth Jordan; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 16343) granting a pension to William H. Whittaker; to the Committee on Pensions.

By Mr. WOODRUFF: A bill (H. R. 16344) granting an increase of pension to Hezikiah B. Hulbert; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Cores Fratries Association of Cosmopolitan Clubs, protesting against section 47 of the immigration bill, No. 103; to the Committee on Immigration and Naturalization.

Also (by request), petition of sundry citizens of Grove City, Pa.; Upland, Cal.; Harvard, Ill.; Glen Alpine, N. C.; Benzonia, Mich.; Biddeford, Me., and West Lebanon, Ind, protesting against practice of polygamy in the United States; to the Committee on the Judiciary.

Also (by request), petition of sundry citizens of Silex, Mo., favoring national prohibition; to the Committee on the Judiciary.

Also (by request), petition of the American Society of Landscape Architects, protesting against ending the half-and-half plan of taxation in the District of Columbia; to the Committee on the District of Columbia.

By Mr. AINEY: Petition of 19 voters of Bridgewater, Pa., and 26 voters of Falls, Pa., favoring national prohibition; to the Committee on the Judiciary.

By Mr. ALLEN: Petition of William Miller and 138 other citizens of Cincinnati, Ohio, protesting against national prohibition; to the Committee on the Judiciary.

Also, memorial of the Hamilton County (Ohio) Woman's Suffrage Association and the Susan B. Anthony Club, of Cincinnati, Ohio, favoring woman suffrage; to the Committee on the Judiciary.

By Mr. ANSBERRY: Petitions of sundry citizens of Ohio, against national prohibition; to the Committee on the Judiciary.

Also, petition of the suffrage associations of Henry and Putnam Counties, Ohio, favoring woman suffrage; to the Committee on the Judiciary.

By Mr. ASHBROOK: Petition of the suffrage clubs of Coshocton and New Philadelphia, Ohio, favoring woman suffrage; to the Committee on the Judiciary.

By Mr. BAILEY: Petition of Dr. F. S. Hoover, of Brownsville, Pa., protesting against amendment to House bill 6282; to the Committee on Ways and Means.

Also, petition of L. C. Bailey, of Saxton, Pa., favoring passage of House bill 13305, relative to setting prices at which goods may be sold; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Board of Trade of Chester, Pa., protesting against Federal ownership of the telephone and telegraph; to the Committee on Interstate and Foreign Commerce.

Also, petition of various voting citizens of Summerhill Township, Pa., favoring national prohibition; to the Committee on the Judiciary.

By Mr. BAKER: Petition of sundry citizens of the second congressional district of New Jersey, against national prohibition; to the Committee on the Judiciary.

Also, petition of 450 citizens of Wildwood, N. J., and sundry citizens of Fairton, N. J., favoring national prohibition; to the Committee on the Judiciary.

By Mr. BARTON: Petition of the Nebraska Church Federation, favoring national prohibition; to the Committee on the Judiciary.

Also, memorial of the Grand Island (Nebr.) Commercial Club, protesting against national prohibition; to the Committee on the Judiciary.

By Mr. BROWN of New York: Petitions of 384 citizens of the first congressional district of New York, against national prohibition; to the Committee on the Judiciary.

Also, petition of sundry citizens of Suffolk County, N. Y., protesting against national prohibition; to the Committee on the Judiciary.

By Mr. BROWNING: Petitions of 22 citizens of Camden; 62 citizens of Williamstown; 25 citizens of Sewell; 60 citizens of Barnesbow; 50 citizens of Aldine; and 57 citizens of Haddon Heights, Audubon, and Clementine, all in the State of New Jersey, favoring national prohibition; to the Committee on the Judiciary.

Also, petition of the Eighth Ward Branch, Socialist Party, of Camden, N. J., relative to strike conditions in Colorado; to the Committee on the Judiciary.

By Mr. BRUCKNER: Petitions of John Hoelzel, the George N. Remhardt Co., and Fred Burker, all of New York City, protesting against national prohibition; to the Committee on the Judiciary.

Also, petition of C. Klein, of New York, and Rupert Fichte, of Bedford Park, N. Y., favoring the passage of the Bartlett-Bacon bill (H. R. 1873); to the Committee on the Judiciary.

Also, petition of the American Federation of Labor, relative to amending House bill 15657; to the Committee on the Judiciary.

By Mr. BYRNS of Tennessee: Papers to accompany House bill 16321, for increase of pension to Margaret A. Bennett, widow of R. A. Bennett; to the Committee on Pensions.

By Mr. CARTER: Petition of the United Mine Workers of America, of Adamson, Okla., relative to intervention in mine troubles in Colorado; to the Committee on the Judiciary.

By Mr. COOPER: Petition of sundry citizens of Franksville, Wis., favoring House bill 12928, to amend the postal laws; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of Franksville, Wis., against Sabbath-observance bill; to the Committee on the District of Columbia.

Also, petition of sundry citizens of Sharon, Wis., favoring national prohibition; to the Committee on the Judiciary.

Also, petition of sundry citizens of Milwaukee County, Wis., favoring equal suffrage; to the Committee on the Judiciary.

By Mr. CRAMTON: Petitions of H. E. Runnels & Son, of Port Huron, Mich., and the Owl Drug Store, of Mount Clemens, Mich., asking the passage of the Stevens bill (H. R. 13305) for the fixing of standard prices; to the Committee on Interstate and Foreign Commerce.

By Mr. CURRY: Petitions of 45 citizens of Stockton, 3 citizens of Martinez, and 101 citizens of Napa, all in the State of California, against national prohibition; to the Committee on the Judiciary.

By Mr. DONOVAN: Petition of the New Canaan (Conn.) Equal Franchise League, favoring woman suffrage amendment to Constitution; to the Committee on the Judiciary.

By Mr. DYER: Memorial of a street meeting in Washington, D. C., favoring report on House resolution No. 1, enfranchising women; to the Committee on the Judiciary.

Also, petition of Anton Kucera and members of Glass Bottle Blowers, Branch No. 5; F. Hy Koch, James H. McTague, and E. W. Dunn, all of St. Louis, Mo., against prohibition; to the Committee on the Judiciary.

Also, memorial of the Chamber of Commerce of the United State of America, favoring law establishing a court of patent appeals; to the Committee on Patents.

Also, petition of M. B. McMullen, of Mojave, Cal., favoring passage of the Bartlett-Bacon bill (H. R. 1873); to the Committee on the Judiciary.

Also, memorial of the National Association of Vicksburg Veterans, relative to aid, etc., in the reunion of the North and South to be held at Vicksburg, Miss.; to the Committee on Military Affairs.

Also, petition of the Socialist Party of St. Louis, of St. Louis, Mo., relative to investigation of mining troubles in Colorado; to the Committee on the Judiciary.

By Mr. ESCH: Papers in support of House bill 16220, granting an increase of pension to Edward K. Hill; to the Committee on Invalid Pensions.

Also, papers in support of House bill 16278, granting a pension to Adelaide Doty; to the Committee on Invalid Pensions.

By Mr. FESS: Petition of the Research Club of Georgetown, relative to erection of a monument to U. S. Grant in Georgetown, Ohio; to the Committee on the Library.

Also, petition of the Woman's Christian Temperance Union and Woman's Franchise League of Logan County, Ohio, demanding action on the suffrage amendment; to the Committee on the Judiciary.

By Mr. GARNER: Petitions of 300 citizens of Brownsville, Tex., and 250 citizens of Harlingen, Tex., favoring national prohibition; to the Committee on the Judiciary.

By Mr. GRAHAM of Pennsylvania: Memorial of the Board of Trade of Chester, Pa., opposing Government ownership of public utilities; to the Committee on the Judiciary.

Also, petition of the Woman's Christian Temperance Union of Shirleysburg, Pa., favoring national prohibition; to the Committee on the Judiciary.

By Mr. GRIEST: Resolution adopted by the Erie Foundrymen's Association, of Erie, Pa., protesting against the enactment of legislation as proposed by the so-called omnibus antitrust bill; to the Committee on the Judiciary.

By Mr. HART: Petition of various voters of the sixth congressional district of New Jersey, protesting against national prohibition; to the Committee on the Judiciary.

Also, petition of sundry citizens of the State of New Jersey and Kingsland (N. J.) Methodist Episcopal Church Brotherhood, favoring national prohibition; to the Committee on the Judiciary.

By Mr. HUMPHREY of Washington: Petition of sundry citizens of Carrollton, Wash., against Sabbath-observance bill; to the Committee on the District of Columbia.

By Mr. IGOE: Petition of A. H. Moss, St. Louis, Mo., against national prohibition; to the Committee on the Judiciary.

By Mr. KENNEDY of Rhode Island: Petition of the First Baptist Church and Bible School of Lonsdale, R. I., favoring national prohibition; to the Committee on the Judiciary.

By Mr. KETTNER: Petitions of the Presbytery of Riverside, Cal.; sundry citizens of Pasadena; the Pentecostal Church of the Nazarene, of Cucamonga; and the California "Dry" Federation, all in the State of California, favoring national prohibition; to the Committee on the Judiciary.

By Mr. KIESS of Pennsylvania: Petitions of sundry citizens of the fifteenth congressional district of Pennsylvania, favoring national prohibition; to the Committee on the Judiciary.

By Mr. KINKEAD of New Jersey: Petition of various voters of the eighth congressional district of New Jersey, protesting against national prohibition; to the Committee on the Judiciary.

By Mr. LIEB: Memorial of the Evansville Manufacturers' Association, of Evansville, Ind., protesting against further extension of the Parcel Post System; to the Committee on the Post Office and Post Roads.

By Mr. McCLELLAN: Petition of 46 citizens of the twenty-seventh congregational district of New York, against national prohibition; to the Committee on the Judiciary.

By Mr. MADDEN: Petition of sundry citizens of Chicago, Ill., protesting against national prohibition; to the Committee on the Judiciary.

By Mr. MOORE: Petition of the Board of Trade of Chester, Pa., opposing Government ownership of public utilities; to the Committee on the Judiciary.

Also, resolution of the Erie Foundrymen's Association, protesting against hasty consideration of so-called trade-commission bills; to the Committee on the Judiciary.

By Mr. MORIN: Petitions of sundry citizens of Pittsburgh and others of the State of Pennsylvania and the Angelo Myers Distillery, of Philadelphia, Pa., protesting against national prohibition; to the Committee on the Judiciary.

By Mr. MOSS of Indiana: Petitions of 1,965 citizens of Vigo County, Ind., and 124 citizens of Vermilion County, Ind., against national prohibition; to the Committee on the Judiciary.

Also, petition of 86 citizens of Parke County, Ind., favoring House bill 12589 relative to hunting of game; to the Committee on Agriculture.

By Mr. MURRAY of Oklahoma: Petitions of 56 citizens of Ivanhoe, 59 citizens of Chelsea, and the Pentecostal Church of the Nazarene of Isabelle, all in the State of Oklahoma, favoring national prohibition; to the Committee on the Judiciary.

By Mr. O'SHAUNESSY: Petitions of sundry citizens of Block Island, Newport, and Central Falls, all in the State of Rhode Island, favoring national prohibition; to the Committee on the Judiciary.

By Mr. PAIGE of Massachusetts: Petitions of 337 citizens of Gardner, 81 citizens of West Brookfield, 275 citizens of Athol, 18 citizens of Westminster, 560 citizens of Barre; 271 citizens of Boylston, 325 citizens of Clinton, 1,700 citizens of Fitchburg, 528 citizens of Leominster, all in the State of Massachusetts, favoring national prohibition; to the Committee on the Judiciary.

By Mr. RAKER: Resolutions by the Pacific Coast Gold and Silversmiths' Association, favoring House bill 13305, the Stephens bill, fixing a resale price; to the Committee on Interstate and Foreign Commerce.

Also, letters from 23 residents of Valley Springs, Cal., protesting against the passage of House joint resolution 168, relative to national prohibition; to the Committee on the Judiciary.

Also, memorial from the National Association of Vicksburg Veterans, asking for an appropriation from Congress to pay camp expenses of the reunion of Civil War (North and South) veterans, at Vicksburg, October, 1914; to the Committee on Appropriations.

Also, letter from the officials of the American Federation of Labor, suggesting amendments to House bill 15657, relative to antitrust legislation; to the Committee on the Judiciary.

Also, resolutions by the chamber of commerce, San Francisco, Cal., favoring the appropriation of $500,000 for the erection of new buildings for the United States marine hospital in San Francisco; to the Committee on Naval Affairs.

Also, resolutions by the Vallejo Trades and Labor Council, Vallejo, Cal., favoring House bill 11522, by JOHN I. NOLAN, providing for a minimum wage of Government employees of the Mare Island Navy Yard, etc.; to the Committee on Reform in the Civil Service.

By Mr. SUTHERLAND: Papers to accompany bill for relief of Elizabeth Jordan; to the Committee on War Claims.

By Mr. TAYLOR of Arkansas (by request): Petition of sundry citizens of Hot Springs, Ark., favoring Federal motion picture commission; to the Committee on Agriculture.

By Mr. TAYLOR of New York: Petitions of sundry citizens of Suffern, White Plains, Stony Point, and Katonah, all in the State of New York, favoring national prohibition; to the Committee on the Judiciary.

Also, petition of 76 citizens of the twenty-sixth congressional district of New York, against national prohibition; to the Committee on the Judiciary.

Also, petition of sundry citizens of White Plains and Brooklyn, N. Y., against Sabbath-observance bill; to the Committee on the District of Columbia.

By Mr. TUTTLE: Petition of various voters of the fifth congressional district of New Jersey, protesting against national prohibition; to the Committee on the Judiciary.

Also, petitions of various business men of Westfield, Madison, Roselle, German Valley, Morristown, and Rahway, all in the State of New Jersey, favoring passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

Also, petitions of sundry citizens of Mendham, Summit, Madison, Dover, Chathams, Plainfield, Elizabeth, Cranford, Roselle Park, Boonton, Port Morris, all in the State of New Jersey, favoring national prohibition; to the Committee on the Judiciary.

By Mr. WILLIS: Petition of the Delaware High School, of Delaware, Ohio, representing 435 people, in favor of the adoption of House joint resolution No. 168, relating to national prohibition; to the Committee on the Judiciary.

Also, petition of Monnett Hall, Ohio Wesleyan University, Delaware, Ohio, representing 130 people, favoring the adoption of House joint resolution No. 168, relating to national prohibition; to the Committee on the Judiciary.

By Mr. WILSON of Florida: Petition of 76 citizens, the Woman's Christian Temperance Union, and the Baptist Young People's Union of Tallahassee, Fla., favoring national prohibition; to the Committee on the Judiciary.

By Mr. WILSON of New York: Petitions of sundry citizens of Queens and Kings Counties, N. Y., protesting against national prohibition; to the Committee on the Judiciary.

By Mr. WOODRUFF: Petitions of sundry citizens of Iosco, Crawford, Bay, Arenac, Presque Isle, and Ogemaw Counties, all in the State of Michigan, against national prohibition; to the Committee on the Judiciary.

SENATE.

THURSDAY, *May 7, 1914.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we pray that we may feel the sacredness of our citizenship in a land so great and so free. Thou hast called upon Thy servants in this Senate to write the laws of a Christian Nation. We have not yet exhausted the treasure of divine revelation in the making of a nation. So do Thou grant unto them the grace to seek divine help that all Thy will may be written into the laws and into the life of this great Nation.

We remember to-day we are receiving back to their native soil the bodies of the boys of the Navy who gave their lives in obedience to the call of their country. Their blood is a part of the purchase price of the sacred inheritance that we have received. Grant us, we pray Thee, deeper convictions than ever before of our solemn obligations to men and to God, and to be such men as that we may be worthy of the trust that Thou dost commit to us. For Christ's sake. Amen.

The Journal of yesterday's proceedings was read and approved.

EMPLOYMENT OF CONVICTS IN FOREIGN COUNTRIES.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of Commerce, transmitting, in further response to a resolution of November 10, 1913, an additional report from the American consul general at Berlin, Germany, on the employment of convicts in foreign countries, which, with the accompanying paper, was referred to the Committee on Printing.